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Legislation

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Contents

[1] Text with EEA relevance.

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

Corrigenda

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2017/2227

of 30 November 2017

entering a name in the register of protected designations of origin and protected geographical indications ('Makói petrezselyemgyökér' (PGI))

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ([1]), and in particular Article 52(2) thereof,

Whereas:

(1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, Hungary's application to register the name 'Makói petrezselyemgyökér' was published in the *Official Journal of the European Union* ([2]).

(2) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the name 'Makói petrezselyemgyökér' should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The name 'Makói petrezselyemgyökér' (PGI) is hereby entered in the register.

The name specified in the first paragraph denotes a product in Class 1.6. – Fruit, vegetables and cereals, fresh or processed, as listed in Annex XI to Commission Implementing Regulation (EU) No 668/2014 ([3]).

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 30 November 2017.

For the Commission,
On behalf of the President,
Phil HOGAN
Member of the Commission

([1]) OJ L 343, 14.12.2012, p. 1.
([2]) OJ C 252, 3.8.2017, p. 14.
([3]) Commission Implementing Regulation (EU) No 668/2014 of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs (OJ L 179, 19.6.2014, p. 36).

COMMISSION REGULATION (EU) 2017/2228

of 4 December 2017

amending Annex III to Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products ([1]), and in particular Article 31(1) thereof,

Whereas:

(1) Several Member States have recently indicated safety problems in relation to the use of peanut oil, its extracts and its derivatives in cosmetic products. Concerns have been raised that sensitisation to peanuts might be induced through skin exposure to peanut oil through the use of cosmetic products.

(2) The Scientific Committee on Consumer Safety ('SCCS') acknowledged those concerns in its revised opinion of 23 September 2014 ([2]). In that opinion, the SCCS concluded that there are insufficient data to define a safe level of skin exposure in the non-sensitised population. It added that, however, in view of the documented safe levels of oral intake of peanut proteins in sensitised individuals and in view of the industry's capability to refine peanut oil to protein levels of 0,5 ppm or below, that value can be accepted as the maximum allowable concentration in (refined) peanut oil, its extracts and its derivatives used in cosmetic products.

(3) Several Member States have also indicated safety problems in relation to cosmetic products containing hydrolysed wheat proteins. A number of cases of contact urticaria provoked by such cosmetic products, followed by anaphylactic shock after the ingestion of food containing wheat proteins, have been reported.

(4) In its revised opinion of 22 October 2014 ([3]) the SCCS considered the use of hydrolysed wheat proteins in cosmetic products safe for consumers, provided that the maximum molecular weight average of the peptides in hydrolysates is 3,5 kDa.

(5) In light of the opinions given by the SCCS, the use of cosmetic products containing peanut oil, its extracts and its derivatives and the use of cosmetic products containing hydrolysed wheat proteins present a potential risk to human health. In order to ensure the safety of such cosmetic products for human health, it is appropriate to set a maximum concentration of 0,5 ppm for peanut proteins in peanut oil, its extracts and its derivatives used in cosmetic products and to restrict the molecular weight average of the peptides in hydrolysed wheat proteins used in cosmetic products to a maximum of 3,5 kDa.

(6) The industry should be allowed a reasonable period of time to adapt to the new requirements by making the necessary adjustments to their product formulations to ensure that only products complying with those requirements are placed on the market. The industry should also be allowed a reasonable period of time to withdraw products which do not comply with the new requirements from the market.

(7) Annex III to Regulation (EC) No 1223/2009 should therefore be amended accordingly.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Cosmetic Products,

HAS ADOPTED THIS REGULATION:

Article 1

Annex III to Regulation (EC) No 1223/2009 is amended in accordance with the Annex to this Regulation.

([1]) OJ L 342, 22.12.2009, p. 59.
([2]) SCCS/1526/14.
([3]) SCCS/1534/14.

Article 2

From 25 September 2018 cosmetic products containing one or more of the substances restricted by this Regulation and not complying with the restrictions laid down in this Regulation shall not be placed on the Union market.

From 25 December 2018 cosmetic products containing one or more of the substances restricted by this Regulation and not complying with the restrictions laid down in this Regulation shall not be made available on the Union market.

Article 3

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 4 December 2017.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

In Annex III to Regulation (EC) No 1223/2009, in the table, the following two entries are added:

Reference number	Substance identification				Restrictions			Wording of conditions of use and warnings
	Chemical name/INN	Name of Common Ingredients Glossary	CAS number	EC number	Product type, body parts	Maximum concentration in ready for use preparation	Other	
a	b	c	d	e	f	g	h	i
'X	Peanut oil, extracts and derivatives	Arachis Hypogaea Oil	8002-03-7	232-296-4			Maximum concentration of peanut proteins: 0,5 ppm (*)	
		Arachis Hypogaea Seedcoat Extract	8002-03-7	232-296-4				
		Arachis Hypogaea Flour	8002-03-7	232-296-4				
		Arachis Hypogaea Fruit Extract	8002-03-7	232-296-4				
		Arachis Hypogaea Sprout Extract						
		Hydrogenated Peanut Oil	68425-36-5	270-350-9				
		Peanut Acid	91051-35-3	293-087-1				
		Peanut Glycerides	91744-77-3	294-643-6				
		Peanut Oil PEG-6 Esters	68440-49-3					
		Peanutamide MEA	93572-05-5	297-433-2				
		Peanutamide MIPA						
		Potassium Peanutate	61789-56-8	263-069-8				
		Sodium Peanutamphoacetate						
		Sodium Peanutate	61789-57-9	263-070-3				
		Sulfated Peanut Oil	73138-79-1	277-298-6				

Reference number	Substance identification				Restrictions			Wording of conditions of use and warnings
	Chemical name/INN	Name of Common Ingredients Glossary	CAS number	EC number	Product type, body parts	Maximum concentration in ready for use preparation	Other	
a	b	c	d	e	f	g	h	i
Y	Hydrolyzed wheat protein	Hydrolyzed Wheat Protein	94350-06-8 / 222400-28-4 / 70084-87-6 / 100209-50-5	305-225-0 309-358-5			Maximum molecular weight average of the peptides in hydrolysates: 3,5 kDa (**)'	

(*) From 25 September 2018 cosmetic products containing peanut oil, extracts and derivatives and not complying with that restriction shall not be placed on the Union market. From 25 December 2018 cosmetic products containing peanut oil, extracts and derivatives and not complying with that restriction shall not be made available on the Union market.

(**) From 25 September 2018 cosmetic products containing hydrolyzed wheat proteins and not complying with that restriction shall not be placed on the Union market. From 25 December 2018 cosmetic products containing hydrolyzed wheat proteins and not complying with that restriction shall not be made available on the Union market.

COMMISSION REGULATION (EU) 2017/2229

of 4 December 2017

amending Annex I to Directive 2002/32/EC of the European Parliament and of the Council as regards maximum levels for lead, mercury, melamine and decoquinate

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2002/32/EC of the European Parliament and of the Council of 7 May 2002 on undesirable substances in animal feed ([1]), and in particular Article 8(1) thereof,

Whereas:

(1) Directive 2002/32/EC provides that the use of products intended for animal feed which contain levels of undesirable substances exceeding the maximum levels laid down in Annex I to that Directive is prohibited.

(2) The European Food Safety Authority ('the Authority') adopted a scientific opinion on the safety and efficacy of dicopper (l) oxide as feed additive for all species ([2]). In the opinion it is indicated that the levels of lead in dicopper (l) oxide exceed in certain cases the current Union maximum levels for lead but the levels found do not present a safety concern as the animal exposure to lead through the use of that additive would be lower than that resulting from the use of other copper compounds compliant with Union law. Based on the information provided, the maximum level for lead in feed additives belonging to the functional group of compounds of trace elements is not achievable on a consistent basis for dicopper (l) oxide by applying good manufacturing practices. It is appropriate to adapt the maximum level for lead in dicopper (l) oxide.

(3) Many co-products and by-products of the food industry intended for pet food are mainly from tuna. The current maximum levels of mercury for those co-products and by-products are lower than the maximum level of mercury applicable to tuna for human consumption, which causes a shortage in the supply of such co-products and by-products compliant with the maximum level of mercury for use in pet food. Therefore it is appropriate to adapt the maximum level for mercury for fish, other aquatic animals and products derived intended for the production of compound feed for dogs, cats, ornamental fish and fur animals, whilst keeping a high level of animal health protection.

(4) The Authority adopted a scientific opinion on the safety and efficacy of guanidinoacetic acid ('GAA') for chickens for fattening, breeder hens and roosters, and pigs ([3]). The additive guanidinoacetic acid is specified to contain melamine as impurity up to 20 mg/kg. The Authority concluded that the contribution of GAA to melamine content in feed would be of no concern. Maximum level for melamine in feed has been established in Directive 2002/32/EC. No maximum level of melamine is yet established for GAA. Therefore it is appropriate to set a maximum level for melamine in GAA.

(5) Commission Implementing Regulation (EU) No 291/2014 ([4]) reduced the withdrawal time for decoquinate from three days to zero days. Therefore the provision for the unavoidable carry-over of decoquinate in withdrawal feed for chickens for fattening should be deleted.

(6) Directive 2002/32/EC should therefore be amended accordingly.

(7) The measures provided for in this Regulation are in accordance with the opinion of Standing Committee on Plants, Animals, Feed and Food,

([1]) OJ L 140, 30.5.2002, p. 10.

([2]) EFSA FEEDAP Panel (EFSA Panel on Additives and Products or Substances used in Animal Feed), 2016. Scientific opinion on the safety and efficacy of dicopper (l) oxide as feed additive for all animal species. EFSA Journal 2016;14(6):4509, 19 pp. doi:10.2903/j.efsa.2016.4509 http://onlinelibrary.wiley.com/doi/10.2903/j.efsa.2016.4509/epdf

([3]) EFSA FEEDAP Panel (EFSA Panel on Additives and Products or Substances used in Animal Feed), 2016. Scientific opinion on the safety and efficacy of guanidinoacetic acid for chickens for fattening, breeder hens and roosters, and pigs. EFSA Journal 2016;14(2):4394, 39 pp. doi:10.2903/j.efsa.2016.4394 http://onlinelibrary.wiley.com/doi/10.2903/j.efsa.2016.4394/epdf

([4]) Commission Implementing Regulation (EU) No 291/2014 of 21 March 2014 amending Regulation (EC) No 1289/2004 as regards the withdrawal time and maximum residues limits of the feed additive decoquinate (OJ L 87, 22.3.2014, p. 87).

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Directive 2002/32/EC is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 4 December 2017.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Annex I to Directive 2002/32/EC is amended as follows:

(1) Row 4 of Section I, Lead, is replaced by the following:

Undesirable substance	Products intended for animal feed	Maximum content in mg/kg (ppm) relative to a feed with a moisture content of 12 %
'4. Lead ([12])	Feed materials with the exception of:	10
	— forage ([3]);	30
	— phosphates and calcareous marine algae;	15
	— calcium carbonate; calcium and magnesium carbonate ([10]);	20
	— yeasts.	5
	Feed additives belonging to the functional group of compounds of trace elements with the exception of:	100
	— zinc oxide;	400
	— manganous oxide, ferrous carbonate, cupric carbonate, dicopper oxide.	200
	Feed additives belonging to the functional groups of binders and anti-caking agents with the exception of:	30
	— clinoptilolite of volcanic origin; natrolite-phonolite.	60
	Premixtures ([6])	200
	Complementary feed with the exception of:	10
	— mineral feed;	15
	— long-term supply formulations of feed for particular nutritional purposes with a concentration of trace elements higher than 100 times the established maximum content in complete feed.	60
	Complete feed.	5'

(2) Row 5 of Section I, Mercury, is replaced by the following:

Undesirable substance	Products intended for animal feed	Maximum content in mg/kg (ppm) relative to a feed with a moisture content of 12 %
'5. Mercury ([4])	Feed materials with the exception of:	0,1
	— fish, other aquatic animals and products derived thereof intended for the production of compound feed for food producing animals;	0,5

Undesirable substance	Products intended for animal feed	Maximum content in mg/kg (ppm) relative to a feed with a moisture content of 12 %
	— tuna (*Thunnus* spp, *Euthynnus* spp. *Katsuwonus pelamis*) and products derived thereof intended for the production of compound feed for dogs, cats, ornamental fish and fur animals;	1,0 ([13])
	— fish, other aquatic animals and products derived thereof, other than tuna and derived products thereof, intended for the production of compound feed for dogs, cats, ornamental fish and fur animals;	0,5 ([13])
	— calcium carbonate; calcium and magnesium carbonate ([10]).	0,3
	Compound feed with the exception of:	0,1
	— mineral feed;	0,2
	— compound feed for fish;	0,2
	— compound feed for dogs, cats, ornamental fish and fur animals.	0,3’

(3) Endnote 13 to section I: Inorganic contaminants and nitrogenous compounds, is replaced by the following:

‘([13]) The maximum level is applicable on wet weight basis’

(4) Row 7 of Section I, Melamine, is replaced by the following:

Undesirable substance	Products intended for animal feed	Maximum content in mg/kg (ppm) relative to a feed with a moisture content of 12 %
‘7. Melamine ([9])	Feed with the exception of:	2,5
	— canned pet food	2,5 ([11])
	— the following feed additives:	
	— guanidino acetic acid (GAA);	20
	— urea;	—
	— biuret.	—’

(5) Row 1 of Section VII, Decoquinate is replaced by the following:

Coccidiostat	Products intended for animal feed ([1])	Maximum content in mg/kg (ppm) relative to a feed with a moisture content of 12 %
‘1. Decoquinate	Feed materials	0,4
	Compound feed for	
	— laying birds and chickens reared for laying (> 16 weeks);	0,4
	— other animal species	1,2
	Premixtures for use in feed in which the use of decoquinate is not authorised.	([2])’

COMMISSION IMPLEMENTING REGULATION (EU) 2017/2230

of 4 December 2017

imposing a definitive anti-dumping duty on imports of trichloroisocyanuric acid originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ([1]) ('the basic Regulation'), and in particular Article 11(2) thereof,

Whereas:

A. PROCEDURE

1. Measures in force

(1) Following an anti-dumping investigation ('the original investigation'), the Council imposed, by means of Regulation (EC) No 1631/2005 ([2]) a definitive anti-dumping duty on imports of trichloroisocyanuric acid ('TCCA') originating in the People's Republic of China ('the PRC') and the United States of America ('USA'). The measures against the PRC took form of *ad valorem* individual duties ranging from 7,3 % to 40,5 % with a residual duty of 42,6 %.

(2) By Implementing Regulation (EU) No 855/2010 ([3]), the Council lowered the individual duty applied to one company from 14,1 % to 3,2 %.

(3) Following an expiry review of the measures ('first expiry review'), which only targeted imports of TCCA originating in the PRC, the Council extended the anti-dumping duties on TCCA of Chinese origin for another 5 years by Council Implementing Regulation (EU) No 1389/2011 ([4]).

(4) On 28 August 2013 and 1 July 2014 respectively, the Commission initiated two new exporter reviews. By Implementing Regulation (EU) No 569/2014 ([5]), the Commission imposed an individual duty of 32,8 % on TCCA manufactured by one new Chinese exporting producer ([6]). The other Chinese exporting producer ([7]) formally withdrew its request and consequently the Commission terminated the investigation by Commission Implementing Regulation (EU) 2015/392 ([8]).

([1]) OJ L 176, 30.6.2016, p. 21.
([2]) Council Regulation (EC) No 1631/2005 of 3 October 2005 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of trichloroisocyanuric acid originating in the People's Republic of China and the United States of America (OJ L 261, 7.10.2005, p. 1).
([3]) Council Implementing Regulation (EU) No 855/2010 of 27 September 2010 amending Regulation (EC) No 1631/2005 imposing a definitive anti-dumping duty on imports of trichloroisocyanuric acid originating, inter alia, in the People's Republic of China (OJ L 254, 29.9.2010, p. 1).
([4]) Council Implementing Regulation (EU) No 1389/2011 of 19 December 2011 imposing definitive anti-dumping duty on imports of trichloroisocyanuric acid originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 (OJ L 346, 30.12.2011, p. 6).
([5]) Commission Implementing Regulation (EU) No 569/2014 of 23 May 2014 amending Council Implementing Regulation (EU) No 1389/2011 imposing definitive anti-dumping duty on imports of trichloroisocyanuric acid originating in the People's Republic of China following a new exporter review pursuant to Article 11(4) of Council Regulation (EC) No 1225/2009 (OJ L 157, 27.5.2014, p. 80).
([6]) Liaocheng City Zhonglian Industry Co. Ltd
([7]) Juancheng Kangtai Chemical Co. Ltd
([8]) Commission Implementing Regulation (EU) 2015/392 of 9 March 2015 terminating a new exporter review of Council Implementing Regulation (EU) No 1389/2011 imposing definitive anti-dumping duty on imports of trichloroisocyanuric acid originating in the People's Republic of China, re-imposing the duty with regard to imports from the exporter and terminating the registration of these imports (OJ L 65, 10.3.2015, p. 18).

2. **Request for an expiry review**

(5) Following the publication of the notice of impending expiry ([1]) of the anti-dumping measures in force, the Commission received a request for the initiation of an expiry review of the measures in force pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community ([2]).

(6) The request was lodged by two Union producers: Ercros SA and Inquide SA ('the applicants') who represented more than 50 % of the total estimated Union production of TCCA in 2015.

(7) The request was based on the grounds that the expiry of the measures in force would in all likelihood result in continuation of dumping and injury to the Union industry.

3. **Initiation of the expiry review**

(8) Having determined that sufficient evidence existed, the Commission announced on 20 December 2016, by a notice published in the *Official Journal of the European Union* ([3]) ('Notice of Initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

4. **Investigation**

4.1. *Review investigation period and period considered*

(9) The investigation of the likelihood of continuation or recurrence of dumping covered the period from 1 October 2015 to 30 September 2016 (the 'review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of continuation or recurrence of injury covered the period from 1 January 2013 to the end of the review investigation period (the 'period considered').

4.2. *Parties concerned by the investigation*

(10) The Commission advised the applicants, the other known Union producer, known exporting producers in the PRC, importers, traders, users, associations known to be concerned and the representatives of the PRC of the initiation of the expiry review.

(11) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the Notice of Initiation. No party came forward and requested a hearing at the initiation stage of the investigation.

4.3. *Sampling*

(12) In the Notice of Initiation, the Commission stated that in accordance with Article 17 of the basic Regulation, it intended to sample exporting producers and unrelated importers in case a significant number of them came forward.

Sampling of exporting producers in the PRC

(13) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, it asked the mission of the PRC to the Union to identify and/or contact other Chinese exporting producers, if any, that could be interested in participating in the investigation.

(14) 27 known Chinese exporting producers were contacted at the initiation. No exporting producer in the PRC came forward with a response to the sampling form or decided to cooperate in the expiry review. Therefore, no sampling of Chinese exporting producers was necessary in this procedure.

([1]) Notice of the impending expiry of certain anti-dumping measures (OJ C 117, 2.4.2016, p. 9).
([2]) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51). This Regulation was repealed and replaced by the basic Regulation.
([3]) Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of trichloroisocyanuric acid originating in the People's Republic of China (OJ C 476, 20.12.2016, p. 6).

Sampling of unrelated importers

(15) To decide whether sampling was necessary and, if so, to select a sample, all known (in total 14) importers/distributors were invited to fill in the sampling form attached to the Notice of Initiation.

(16) Only five importers replied to the sampling form and therefore sampling was not considered necessary.

4.4. *Questionnaires and verification visits*

(17) The Commission sought and verified all the information deemed necessary for the purpose of determining the likelihood of continuation or recurrence of dumping, the likelihood of continuation or recurrence of injury and Union interest.

(18) The Commission sent questionnaires to two known producers in the analogue country (Japan), the three known Union producers, two unrelated importers and 39 known users in the Union.

(19) Complete questionnaire replies were received from the two analogue country producers, two Union producers ([1]) and one unrelated importer.

(20) The Commission carried out verifications at the premises of the following companies:

(a) Union producers ([2]):

— Ercros SA, Barcelona, Spain

(b) Importers:

— Diasa Industrial, Calahorra, Spain

(c) Producers in the market economy analogue country:

— Nissan Chemical Industries Ltd, Japan,

— Shikoku Chemicals Corporation, Japan.

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. **Product concerned**

(21) The product concerned is TCCA and preparations thereof also referred to as 'symclosene' under the international non-proprietary name (INN), currently falling within CN codes ex 2933 69 80 and ex 3808 94 20 (TARIC codes 2933 69 80 70, 3808 94 20 20) originating in the PRC.

(22) TCCA is a chemical product used as a broad-spectrum organic chlorine disinfectant and bleacher, in particular for disinfecting water in swimming pools and spas. Other uses include water treatment in septic tanks or cooling towers and cleansing of kitchen appliances. TCCA is sold in the form of powder, granules, tablets or chips. All forms of TCCA and preparations thereof share the same basic characteristics (disinfectant) and are therefore considered as a single product.

2. **Like product**

(23) The product concerned and the like product produced and sold on the domestic market of Japan, the analogue country, as well as the like product produced and sold in the Union by the Union industry were found to have the same basic physical, chemical and technical characteristics and uses.

(24) The Commission therefore concluded that these products are alike within the meaning of Article 1(4) of the basic Regulation.

([1]) The third known Union producer provided a partial questionnaire reply only.
([2]) After the initiation the Commission excluded one of the producers from the definition of Union industry (see section D.1, definition of the Union industry and Union production).

C. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

(25) In accordance with Article 11(2) of the basic Regulation, the Commission first examined whether the expiry of the measures in force would be likely to lead to a continuation or recurrence of dumping from the PRC.

1. **Cooperation from the PRC**

(26) Upon initiation of the review investigation all known Chinese exporting producers were invited to come forward and to provide replies to the sampling form attached to the Notice of Initiation. However, no Chinese company reacted to the initiation of the review investigation and/or decided to cooperate at any further stage of the procedure.

(27) The Mission of the People's Republic of China to the European Union was informed by *note verbale* that under these circumstances the Commission intended to base its findings concerning the likelihood of continuation or recurrence of dumping and injury on the facts available pursuant to Article 18 of the basic Regulation. No comments were received.

(28) Consequently, findings with regard to continuation or recurrence of dumping were based on the information contained in the review request, Eurostat statistics, the Article 14(6) database, and the Chinese Export Database and market estimations of the cooperating analogue country producers.

2. **Dumping during the review investigation period**

2.1. *Market economy third country*

(29) In accordance with Article 2(7)(a) of the basic Regulation, normal value was determined on the basis of the prices paid or payable on the domestic market or the constructed value in an appropriate market economy third country (the 'analogue country').

(30) Both in the original investigation and in the first expiry review the Commission chose Japan as analogue country for the purpose of establishing normal value. Following the review request, in the Notice of Initiation, the Commission informed interested parties that it again envisaged using Japan as analogue country. In addition, the Notice of Initiation mentioned that other market economy producers may be located, inter alia, in the USA. No comments were received.

(31) The Commission contacted all known exporting producers, namely two in Japan and three in the USA. None of the companies from the USA agreed to cooperate in the investigation. The two Japanese companies, Nissan Chemical Industries Ltd and Shikoku Chemicals Corporation agreed to cooperate in the investigation and replied to the questionnaire which was subsequently verified on spot.

(32) Japan has a sizeable domestic market ([1]) of TCCA with a satisfactory level of competition therein. There are at least three competing domestic producers ([2]) in Japan and during the review investigation period 15 % of the market was covered by imports ([3]). The country is not protected by high customs duties ([4]). Finally, Japan has no trade defence measures on imports of TCCA.

(33) In view of the above, the Commission concluded that Japan was an appropriate analogue country under Article 2(7)(a) of the basic Regulation.

2.2. *Chinese exporting producers without MET*

(34) Due to the lack of cooperation from the PRC, the dumping calculation was performed without differentiation of the product types.

([1]) Estimated to be at least 10 000 tonnes annually.

([2]) The two cooperating exporting producers informed the Commission that a third Japanese TCCA producer existed, Nankai Chemical Co. Ltd.

([3]) According to the cooperating Japanese producers only the PRC is selling TCCA on the Japanese market. According to the Chinese Export Database, the PRC sold roughly 1 500 tonnes of TCCA to Japan during the review investigation period.

([4]) According to the review request the regular customs duty is 4,6 % for HS code 2933 69 and 4,9 % for HS code 3808 94.

(a) Normal value

(35) Normal value for exporting producers without MET was established based on the data verified at the premises of the two cooperating producers in Japan.

(36) In accordance with Article 2(2) of the basic Regulation, the Commission first examined whether the total volume of domestic sales of the like product to independent customers made by the cooperating analogue country producers during the review investigation period was representative. To this end, their combined domestic sales volumes were compared to the total volume of the product concerned exported by Chinese exporting producers without MET to the Union in the same period. On that basis, the Commission found that the like product was sold in representative quantities on the Japanese domestic market.

(37) The Commission subsequently examined for the analogue country producers whether the product sold domestically could be considered as being sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation.

(38) The ordinary course of trade test revealed that the volume sold at a net sales price equal to or above the calculated cost of production (costs of manufacturing plus SG&A costs), represented less than 80 % of the total domestic sales volume, consequently, normal value was established based on the prices of the profitable domestic transactions only.

(b) Export price

(39) In the absence of cooperation from Chinese exporters, the average export price for the review investigation period was established on the basis of the Article 14(6) database.

(c) Comparison

(40) The normal value and the average Chinese export price as determined above were compared on an ex-works basis.

(41) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. For this purpose, normal value was adjusted for inland transport and handling costs (in the range of 8 %-13 %). The export price was adjusted for ocean freight and inland transport fees based on the estimates contained in the request for review (ranging between 3 %-8 %).

(d) Dumping margin of Chinese exporting producers without MET

(42) The dumping margin thus established for Chinese exporting producers without MET amounted to 80,2 % during the review investigation period.

2.3. *Chinese exporting producers with MET*

(a) Normal value

(43) Normal value for exporting producers with MET was based on the cost of production in the PRC as estimated in the request for review.

(b) Export price

(44) The export price was established on the basis of the export prices of the three MET companies to the Union as recorded in the Article 14(6) database.

(c) Comparison

(45) The normal value and the average Chinese export price as determined above were compared on an ex-works basis.

(46) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. For this purpose, based on the estimations contained in the request for review, the export price was adjusted for ocean freight and inland transport fees (ranging between 3 %-8 %).

(d) Dumping margin of Chinese exporting producers with MET

(47) The dumping margins found were 49,4 % for Hebei Jiheng Chemical Co. Limited, 49,2 % for Heze Huayi Chemical Co. Limited and 37,4 % for Puyang Cleanway Chemicals Limited.

2.4. *Conclusion on dumping in the review investigation period*

(48) The Commission found that Chinese exporting producers continued to export TCCA to the Union at dumped prices during the review investigation.

3. **Evidence of likelihood of continuation of dumping**

(49) The Commission analysed whether there was a likelihood of continuation of dumping should the measures be allowed to lapse. When doing so, it looked into the Chinese spare capacity, attractiveness of the Union market and the behaviour of Chinese exporters on third markets.

(a) Production and spare capacity in the PRC

(50) The first expiry review estimated the spare capacity of TCCA production in the PRC at 180 000 tonnes annually ([1]). According to the request for review, the total Chinese production capacity was estimated at 278 000 tonnes in 2015 ([2]). The Chinese production during the RIP was estimated at around 145 000 tonnes, which included 125 000 tonnes of exports ([3]) and an estimated 20 000 tonnes of domestic consumption ([4]). This gives an annual spare capacity of about 130 000 tonnes, which is almost three times the Union consumption as established in Table 1 below. One of the Japanese analogue country producers, based on its market intelligence, had a more moderate estimation of the spare capacity in the PRC of around 50 000 tonnes annually. This data could not be verified, however. In any case, on the basis of the facts available, there is no doubt that Chinese spare capacity of TCCA is significant and easily exceeds the total Union consumption (ranging between approximately 41 000 and 48 000 tonnes between 2013 and the RIP).

(b) Attractiveness of the Union market and behaviour of the Chinese exporters on third country markets

(51) The attractiveness of the Union market is reflected in the fact that despite the anti-dumping measures in force, Chinese export volumes to the Union continued to expand. The PRC exported 28 000 tonnes of TCCA to the Union in the review investigation period, from 21 500 tonnes in the investigation period of the original investigation.

(52) The Union market is the second-biggest TCCA market in the world after the USA, meaning that it is attractive in terms of its size (volume of sales opportunities).

([1]) Implementing Regulation (EU) No 1389/2011, recital 35 (OJ L 346, 30.12.2011, p. 6).
([2]) *Source:* CEFIC (European Chemical Industry Council) and market intelligence of the applicants, p. 38 of the review request.
([3]) Chinese Export Database.
([4]) Review request, page 33.

(53) Based on the Chinese Export Database, the Commission found that during the review investigation period roughly 23 % of Chinese exports were destined to the Union. When comparing the average export prices (FOB China) the Commission found that around 47 % of the Chinese rest of the world sales volume was sold on average prices that are lower than the average export price to the Union ([1]). This export volume corresponds to 46 100 tonnes, i.e. a volume in the magnitude of the entire Union consumption. Moreover, on the basis of the Chinese export database, the Commission also identified that the majority of these sales (around 85 %, equivalent to 40 000 tonnes) were made by Chinese exporting producers without MET (i.e. companies currently subject to the highest anti-dumping duties on the Union market). Thus, these volumes are even more likely to be redirected to the Union market as soon as the measures lapse given that in their case the removal of the relatively high duties constitutes an even stronger incentive.

(54) Based on the above, the Commission concluded that the Union market constituted an attractive market for Chinese exporting producers of TCCA both in terms of its prices and its size, and that at least 40 000 tonnes of Chinese TCCA sold at dumped prices would in all likelihood be re-directed to the Union market as soon as the current anti-dumping measures are removed.

(c) Conclusion on dumping and likelihood of continuation of dumping

(55) The findings of the investigation showed that the Chinese exporting producers continued selling TCCA at dumped prices to the Union market. The Commission also established that the PRC has significant spare capacity of the product concerned. Finally, the Union market remains attractive for the Chinese exporting producers given its large size and relatively high prices.

D. **INJURY**

1. **Definition of the Union industry and Union production**

(56) The like product was manufactured by three Union producers during the review investigation period ([2]).

(57) In the course of the investigation, the Commission established that one of these producers, Inquide S.A.U., should not be considered as part of the 'Union industry' within the meaning of Article 4(1) of the basic Regulation given that this producer was itself a net importer of the allegedly dumped product. The data submitted in its questionnaire reply revealed that this company imported the product concerned, that the volumes imported exceeded the volumes manufactured in the Union, and that these imports were not of a temporary nature.

(58) Against this background, the Commission decided not to regard this company as part of the Union industry. In practical terms, this decision implies that data relating to the company were disregarded when the injury indicators pertinent to the situation of the Union industry were established. Inquide S.A.U. sales volumes were, however, considered for establishing the total Union consumption.

(59) As a result of the exclusion of Inquide S.A.U., and in order to respect confidential business information, information concerning the two Union producers concerned is presented in an indexed form or in ranges.

2. **Union consumption**

(60) Union consumption was established on the basis of the verified sales volumes of the Union industry in the Union market, the verified sales volume of Inquide S.A.U., and the imports volumes (TARIC level) into the Union market reported in Eurostat.

([1]) The average Chinese export price levels varied greatly depending on the country of destination. The highest price levels were found for destinations such as the USA, Brazil, Argentina and South Africa (in descending order of sales quantity). The main destinations with price levels below the export price to the Union included, in descending order, Mexico, Indonesia, Thailand, India and Vietnam. The Chinese Export Database has one CN code for TCCA meaning that there is no information on the exact product mix (tablets v granules/powder). Nevertheless, given that, based on Eurostat, most of Chinese exports to the Union consisted of granules, i.e. the cheaper version of the product concerned, and given that all forms of TCCA are considered as the product concerned for the purposes of this review investigation, the outcome of the price comparison should not be affected.

([2]) Ercros SA, Inquide S.A.U. and 3VSIGMA.

(61) During the period considered the Union consumption developed as follows

Table 1

Union consumption

	2013	2014	2015	RIP
Volume (tonnes)	41 217	44 446	44 637	48 662
Index (2013 = 100)	*100*	*108*	*108*	*118*

Source: Eurostat (Comext), data provided by the Union industry.

(62) The Union consumption increased continuously and overall by 18 % from 2013 to the RIP. This had major implications on certain injury indicators as detailed below.

3. **Imports from the country concerned**

3.1. *Volume and market share of imports from the People's Republic of China*

(63) Imports into the Union from the PRC developed as follows:

Table 2

Volume and market share of imports from the PRC

	2013	2014	2015	RIP
Volume of imports (MT)	17 021	23 457	22 589	28 095
Index (2013 = 100)	*100*	*138*	*133*	*165*
Market share (%)	41,3	52,8	50,6	57,7

Source: Eurostat (Comext).

(64) Imports of TCCA from the PRC have increased overall in absolute terms and in terms of market share during the period considered. The one minor exception was 2015, when import volumes actually decreased slightly as compared with the previous year, reflecting the stagnation in consumption in the Union market in that year, as shown in Table 1. This downturn of imports was in turn followed by a notable resurgence of imports in the RIP (more than 24 % as compared to 2015). Considered comprehensibly, the dynamic surge in consumption as shown in Table 1 was almost exclusively absorbed by the rising imports from the PRC.

(65) In parallel, PRC imports increased significantly their market share since 2013, consolidating a significant gain of more than 16 percentage points between 2013 and the RIP.

3.2. *Prices of imports from the country concerned and price undercutting*

(66) The average price of imports into the Union from the country concerned developed as follows:

Table 3

Average price of imports from the PRC

	2013	2014	2015	RIP
Average CIF Union frontier price EUR/tonne	1 262	1 174	1 445	1 308
Index (2013 = 100)	*100*	*93*	*115*	*104*

Source: Eurostat (Comext).

(67) The average import prices from the PRC fluctuated slightly during the period considered, marking an overall increase of 4 %. This trend may, to a certain extent, reflect variations from year to year in the product mix ([1]).

(68) The data from the Chinese Export Database ([2]) revealed, nonetheless, a different pricing pattern. Indeed, for the reference period, the average export price of the TCCA to the Union in USD decreased by 9 %. This suggests that the price increase was a consequence of currency exchange fluctuations, rather than a reflection of the Chinese exporting producers pricing behaviour in the Union market, as gathered firstly from Eurostat.

(69) Prices of PRC imports remained below the prices of the Union industry during the entire period considered, with the exception of 2015. In determining the extent of price undercutting, the Commission based its calculation on the average CIF export prices of the PRC obtained from Eurostat, with appropriate adjustments upwards for customs duties and post-importation costs ([3]). The prices of the product concerned were compared to the weighted average price of the Union industry adjusted to ex-works level.

(70) The comparison showed that, during the RIP, imports from the PRC undercut the prices of the Union industry by 2 %-4 %, without taking into account the anti-dumping duty in place.

4. **Imports from other third countries**

4.1. *Volume and market share of imports from other third countries*

(71) The following table shows the development of imports to the Union from third countries other than the PRC during the period considered in terms of volume and market share:

Table 4

Imports from other third countries

	2013	2014	2015	RIP
Volume (tonnes)	659	853	655	1 874

([1]) The product concerned is manufactured in different forms falling into two main categories: granular and powder products on the one hand and tablets on the other. Prices for tablets are higher than prices for granular and/or powder products. This means that the prices of the product concerned may vary according to the variation in composition of the given product mix. In other words, a product mix containing a higher proportion of tablets would be more expensive than a product mix containing comparatively more granular and powder products.

([2]) The Chinese Export Database provides prices at FOB levels. These were adjusted upwards by the average transportation costs to the Union as well as post importation costs to obtain an estimated Union landed price. See recital 41 above for an estimate thereof.

([3]) Chinese CIF export prices were adjusted by 6-8 %.

	2013	2014	2015	RIP
Market share (%)	1,6	1,9	1,5	3,9
Average price (EUR/tonne)	1 466	1 359	1 706	1 438

Source: Eurostat (Comext).

(72) Either in terms of volume or market share, imports into the Union from countries other than the PRC were negligible between 2013 and 2015 and increased moderately in percentage points in the RIP. With regard to the level of prices of these imports, the observed trend may, to a certain extent, reflect variations from year to year in the product mix. However it should be stressed that the average price of imports from other third countries was never as low as the Chinese prices.

5. **Economic situation of the Union industry**

5.1. *General remarks*

(73) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.

(74) For the injury determination, the Commission did not make a distinction between macroeconomic and micro-economic injury indicators since the Union industry within the meaning of Article 4(1) of the basic Regulation is constituted of only two producers. The Commission evaluated the economic indicators on the basis of data related to these two producers, with the exception of investments and return on investments which due to a lack of data only concern one of the two companies.

(75) The economic indicators are: production, production capacity, capacity utilisation, sales volume, market share, employment, productivity, labour costs, magnitude of the dumping margin, and recovery from past dumping, sales unit prices, unit cost, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital. They are analysed as follows.

5.2. *Injury indicators*

5.2.1. Production, production capacity and capacity utilisation

(76) The total Union production, production capacity and capacity utilisation developed over the period considered as follows:

Table 5

Production, production capacity and capacity utilisation

	2013	2014	2015	RIP
Production volume — Index	*100*	*113*	*129*	*132*
Production capacity — Index	*100*	*115*	*120*	*120*
Capacity utilisation — Index	*100*	*98*	*107*	*110*

Source: Data provided by the Union industry (2013 = 100).

(77) Since 2013 the Union producers have gradually increased their production volumes and their installed capacity, reacting accordingly to the increasing demand, as shown in Table 1 above. From 2015 the Union industry has operated rather at full capacity. This optimal use of the production facilities was positively reflected in lower manufacturing costs and, therefore, in the profitability of the Union industry, as noted further on.

5.2.2. Sales volume, market share

(78) The Union industry's sales volume to independent customers and market share developed over the period considered as follows:

Table 6

Sales volume and market share

	2013	2014	2015	RIP
Sales volume (Index 2013 = 100)	*100*	*90*	*99*	*95*
Market share	40 %-50 %	35 %-45 %	35 %-45 %	30 %-40 %

Source: Eurostat (Comext), data provided by the Union industry.

(79) Overall, the Union industry's sales dropped by 5 % between 2013 and the RIP, even though consumption increased by 18 % during that same period. As a result, the market share of the Union industry decreased noticeably year by year. Conversely, during the same time frame the Chinese exporting producers were able to increase substantially their market share and their export volumes, as indicated in Table 2.

5.2.3. Employment and productivity

(80) Employment and productivity developed over the period considered as follows:

Table 7

Employment and productivity

	2013	2014	2015	RIP
Number of employees (Index 2013 = 100)	*100*	*105*	*110*	*112*
Productivity (Index 2013 = 100)	*100*	*107*	*117*	*119*

Source: Data provided by the Union industry.

(81) Employment of the Union industry increased by 12 % between 2013 and the RIP. Productivity expressed by production volume per employee increased by 19 % during the period considered

5.2.4. Labour costs

(82) The average labour costs of the Union industry developed over the period considered as follows:

Table 8

Average labour costs per employee

	2013	2014	2015	RIP
Average labour costs per employee (Index 2013 = 100)	*100*	*96*	*94*	*96*

Source: Data provided by the Union industry.

(83) Average labour costs per employee decreased by 4 % from 2013 to 2014, and subsequently remained relatively flat until the RIP.

5.2.5. Sales prices and factors affecting prices

(84) The average sales prices of the Union industry to unrelated customers in the Union developed over the period considered as follows:

Table 9

Sales prices and cost of goods sold of the Union industry

	2013	2014	2015	RIP
Average unit price (Index 2013 = 100)	*100*	*102*	*100*	*104*
Cost of goods sold (Index 2013 = 100)	*100*	*97*	*98*	*95*

Source: Data provided by the Union industry.

(85) Unit prices of TCCA in the EU remained fairly stable, on average, until 2015, and increased slightly, by 4 %, during the RIP. This increase reflects, to a certain extent, the referred product mix effect (see footnote 24 above).

(86) Due to the increasing volumes of production and the price evolution of raw materials the unit cost of the goods sold went down by 5 % during the period considered.

5.2.6. Inventories

Table 10

Inventories

	2013	2014	2015	RIP
Closing stocks (tonnes)	4 500	2 696	2 821	3 940
Index (2013 = 100)	*100*	*60*	*63*	*88*

Source: Data provided by the Union industry.

(87) The level of stocks decreased by 40 % between 2013 and 2014, and remained within the same range in 2015. The higher level of stocks at the end of the RIP mirrors the decrease in sales during the same period.

5.2.7. Profitability, cash flow, investments, return on investments and ability to raise capital

(88) Profitability, cash flow, investments and return on investments of the Union producer developed over the period considered as follows:

Table 11

Profitability, cash flow, investments and return on investment

	2013	2014	2015	RIP
Profitability of sales in the Union to unrelated customers (Index)	*– 100*	*– 46*	*– 73*	*13*

	2013	2014	2015	RIP
Investments (Index 2014 = 100) (*)	—	*100*	*198*	*66*
Return on investments (ranges)	– 20 % to – 10 %	– 10 % to 0 %	– 20 % to – 10 %	0 % to 10 %

Source: Data provided by the Union industry.
(*) No investments were made in 2013.

(89) The Commission established the profitability of the Union industry by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. During the period considered, the profitability of the Union industry improved gradually, and turned positive during the RIP. This profitability is nonetheless much lower than the target profit established in the original investigation, which was set at the level of the profit achieved by the Union industry in the absence of injurious dumping.

(90) The period from 2013 to 2015 was characterised by lack of profitability and negative returns on investments. The latest figures point to a comeback to meagre positive returns. The considerable volume pressure exerted on the Union industry by the increasing imports from the PRC over 2013 and the RIP prevented the Union industry from fully benefiting from the dynamic growth of the Union consumption. As indicated in the recital 64 above, this growth was almost completely absorbed by the dumped imports from the PRC.

(91) The net cash flow is the Union industry's ability to self-finance their activities. The net cash flow increased several times during the period considered. The substantial increase in cash flow is mainly explained by changes in the working capital.

(92) The levels observed in the period 2014 to the RIP reflect not only standard investment rates covering the continuous maintenance and necessary replacement of machine parts but the stakes to improve productivity and production processes.

(93) The return on investments is the profit in percentage of the net book value of fixed assets. As the other financial indicators, the return on investments related to the production and sale of the like product also developed positively but remains far off reasonable targets.

5.2.8. Magnitude of the dumping margin and recovery from past dumping

(94) The dumping margins found were significantly above the *de minimis* level and the current level of measures (see recitals 2, 4, and 47 above). Moreover, given the spare capacity and prices of imports from the PRC (see recitals 50 and 66), the impact of the actual margins of dumping on the Union industry cannot be considered negligible.

(95) The original measures were imposed in October 2005. As indicated in recital 89 above, in the RIP the Union industry achieved a yield far short from the 10 % target profit as determined in the original investigation ([1]). Taking into account the overall situation of the Union industry as well as the evolution of imports from the PRC in recent years, it can be concluded that the Union industry has not fully recovered from these effects despite the anti-dumping duties in force.

5.3. *Conclusion on the situation of the Union industry*

(96) In the light of the foregoing, it is concluded that the Union industry did not suffer material injury within the meaning of Article 3(5) of the basic Regulation during the review investigation period. A number of indicators, in particular the financial indicators, improved over the period considered.

([1]) Regulation (EC) No 1631/2005.

(97) However, the indicators referred to cannot be seen in isolation from each other. In fact, the loss of market share, the declining sales volumes and the insufficient profitability levels, when analysed in correlation with a rather favourable consumption context, confirm that the Union industry could have reasonably been expected to perform closer to the margin of 10 % of turnover regarded as reasonable for the sector under normal trade conditions in the absence of dumped imports. Furthermore, the positive trend observed in production, capacity and profitability should also be attributed to decisions taken by the Union industry to invest in additional production facilities and to a more rational use of the existing machinery. This optimal use of capacity is also explained by the rising level of exports to third markets.

(98) These developments, in conjunction with the significant rise of Chinese dumped imports, lead to the conclusion that despite the positive trend observed for some injury factors, overall, although the Union industry is not suffering material injury during the RIP it is still in a vulnerable situation where it would not be able to cope with new surges of dumped imports from PRC.

E. **LIKELIHOOD OF RECURRENCE OF INJURY**

1. **Preliminary remarks**

(99) As concluded in recitals 96 to 98, the Union industry did not suffer material injury during the review investigation period, but its situation is still precarious.

(100) To establish the likelihood of recurrence of injury should the measures against the PRC be repealed the following elements were analysed: (a) the availability of spare capacity of the exporting producers from the PRC; (b) attractiveness of the Union market and export behaviour of Chinese exporting producers on other third markets; and (c) likely impact of TCCA imports from the PRC.

2. **Spare capacity in the PRC**

(101) The PRC is the largest producer of TCCA in the world and accounted for around 57 % of world's overall production capacity by the end of 2015. The analysis made in recital 50 showed that available spare capacities in China were estimated to exceed by a significant degree the total Union consumption in the RIP. In this respect it is important to note that, based on information from the review request and also confirmed by the cooperating Japanese exporting producers, the Union market is the second largest in the world after the USA.

(102) In view of these elements, there is a strong likelihood that, should the measures be lifted, the Chinese exporting producers would direct their production to the Union market.

3. **Attractiveness of the Union market and export behaviour of Chinese exporting producers on other third markets**

(103) The attractiveness of the Union market is reflected in the fact that despite the anti-dumping measures in force, Chinese export volumes to the Union market expanded rapidly over the period considered. The PRC exported 28 000 tonnes of TCCA to the Union in the RIP up from 17 000 tonnes in 2013.

(104) The Commission determined as well that during the RIP roughly 23 % of Chinese exports were destined to the Union market. On the other hand, the evidence collected served to establish that around 47 % of the Chinese 'rest of the world' export sales volume was sold on average prices that were lower than the average export price to the Union market. This export volume corresponds to a volume roughly equivalent to the entire Union consumption.

(105) In case measures were allowed to lapse, as mentioned in recital 53, export volumes made by Chinese exporting producers without MET are even more likely to be redirected to the Union market, given that in their case the removal of the relatively high duties constitutes a stronger incentive.

(106) For the reasons outlined, the Commission concluded that the Union market constitutes an attractive market for Chinese exporting producers, both in terms of prices and in terms of size.

4. **Impact of Chinese dumping on the Union industry**

(107) When assessing the likely impact of Chinese dumped imports on the Union industry, the Commission performed a simulation to assess the impact that the Chinese volumes are likely to have on the Union industry. Assuming a rather moderate sales and production volume decrease of 5 000 tonnes as a result of an increase in Chinese TCCA imports, the unit cost of production would increase by 7,1 %, deteriorating the situation of the Union producers and rendering them loss-making.

(108) In addition, it cannot be excluded that further Chinese imports would also increase the price pressure in the Union market. As mentioned in recital 70, the import prices of the Chinese exporting producers in the Union market undercut the Union industry sales price by 2 %-4 % already today. In the likely event that the referred additional imports would come in at the same price, the negative effect on the Union industry would be further aggravated.

(109) Profitability, although developing positively, is still too low to ensure financial sustainability in the long run. Moreover the referred returns did take place in a context of increasing production volumes that was not reflected in terms of market share. Hence, the Union industry could have reasonably been expected to further amortise its fixed costs over the larger volumes produced.

(110) It is important to note that there have not been TCCA imports into the EU from other countries in sufficient volume as to consider them as a relevant factor to the current situation of the Union industry.

5. **Conclusion on the likelihood of recurrence of injury**

(111) On the basis of the above, and in the absence of any comments, the Commission found that the repeal of the measures would result in recurrence of injury to the Union industry.

F. **UNION INTEREST**

1. **Preliminary remarks**

(112) In accordance with Article 21 of the basic Regulation, the Commission examined whether maintaining the existing measures against the PRC would be against the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers and users.

2. **Interest of the Union industry**

(113) In view of the conclusions on the situation of the Union industry set out in recitals 96 to 98 above, and in line with the arguments underpinning the likelihood of recurrence of injury as determined in the recital 111, the Commission found that the expiry of the measures in force would lead to a deterioration of the precarious economic situation of the Union TCCA industry, which has struggled to cope with the rising dumped imports from the PRC and whose situation is far from equitable as compared to the exporting producers from the PRC.

(114) Thus, the continuation of measures would benefit the Union industry, which could in this case further recover from the effect of continuous dumping. In contrast, the discontinuation of the measures would put a stop to the rehabilitation of the Union industry, seriously threatening its viability, and, as a result, putting its existence at risk, thus reducing supply and competition on the market.

3. **Interest of importers**

(115) 14 known importers/distributors, 11 European National Federations and two European associations were contacted at the initiation stage. One importer in Spain provided a questionnaire reply.

(116) This trader bought large quantities of TCCA from the PRC (6 % of total imports) during the RIP. It also bought limited quantities of TCCA from Union suppliers. The TCCA business is part of a larger business division that in 2015 constituted 35 % of this company's total turnover. The company reported a profit for the product under review in the RIP but eventually did not provide sufficient explanations as to how they determined this profit. The company opposes the continuation of measures but did not put forth convincing arguments supporting their view.

(117) As set out in recital 57, in the course of the investigation, the Commission decided not to regard one of the applicants, Inquide S.A.U., as part of the Union industry, on the grounds that this producer was itself a net importer of the allegedly dumped product. Having been notified, Inquide S.A.U. did not object to this decision. However, Inquide S.A.U. stressed that, notwithstanding the Commission decision, their support to the continuation of the measures on imports of TCCA from the PRC remained unaltered.

(118) In the absence of any further information, the investigation did not reveal that the continuation of the measures would have any significant negative impact for this importer, or importers in general.

(119) Therefore, based on the available information and in the absence of any information/evidence to the contrary, the Commission concluded that the maintenance of measures has no significant negative impact for the importers in the Union.

4. **Interest of users**

(120) Questionnaires were sent to 39 identified users at the initiation stage. No user submitted a questionnaire reply. In the absence of such replies, no conclusions could be drawn on the interest of users. In the absence of new information, the support by users for these measures, as set out in recital 91 of the first expiry review Regulation, i.e. that the continuation of measures would not have a negative impact on competition in the Union market and that it would provide the user industry with a wider range of suppliers competing at market price, can thus be considered as still relevant.

5. **Conclusion on Union interest**

(121) Taking all the above factors into account, the Commission concluded that there are no compelling reasons against maintaining the measures on imports of TCCA from the PRC.

G. **DISCLOSURE**

(122) All parties were informed of the essential facts and considerations on the basis of which the Commission intended to maintain the existing measures against the PRC. They were also granted a period to submit comments subsequent to that disclosure. None of the interested parties submitted comments to the disclosure.

H. **ANTI-DUMPING MEASURES**

(123) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of TCCA originating in the PRC, imposed by Implementing Regulation (EU) No 1389/2011, should be maintained.

(124) The Committee established by Article 15(1) of Regulation (EU) 2016/1036 did not deliver an opinion,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of trichloroisocyanuric acid and preparations thereof, also referred to as 'symclosene' under the international non-proprietary name (INN), currently falling within CN codes ex 2933 69 80 and ex 3808 94 20 (TARIC codes 2933 69 80 70, 3808 94 20 20), and originating in the People's Republic of China.

2. The rate of the definitive anti-dumping duty applicable before duty to the net free-at-Union-frontier price for products manufactured by the companies listed below shall be as follows:

Company	Anti-dumping duty rate	TARIC additional code
Hebei Jiheng Chemical Co. Limited	8,1 %	A604
Puyang Cleanway Chemicals Limited	7,3 %	A628

Company	Anti-dumping duty rate	TARIC additional code
Heze Huayi Chemical Co. Limited	3,2 %	A629
Zhucheng Taisheng Chemical Co. Limited	40,5 %	A627
Liaocheng City Zhonglian Industry Co. Ltd	32,8 %	A998
All other companies	42,6 %	A999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex. If no such invoice is presented, the duty rate applicable to all other companies shall apply.

4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 4 December 2017.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 1(3):

1. The name and function of the official of the entity issuing the commercial invoice.

2. The following declaration:

   'I, the undersigned, certify that the (volume) of trichloroisocyanuric acid sold for export to the European Union covered by this invoice was manufactured by (company name and registered seat) (TARIC additional code) in the People's Republic of China. I declare that the information provided in this invoice is complete and correct.

   Date and signature'

COMMISSION IMPLEMENTING REGULATION (EU) 2017/2231

of 4 December 2017

amending Implementing Regulation (EU) 2016/329 as regards the name of the holder of the authorisation of 6-phytase

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition ([1]), and in particular Article 13(3) thereof,

Whereas:

(1) Kaesler Nutrition GmbH has submitted an application in accordance with Article 13(3) of Regulation (EC) No 1831/2003 proposing to change the name of the holder of the authorisation stated in Commission Implementing Regulation (EU) 2016/329 ([2]).

(2) Lohmann Animal Nutrition GmbH, the holder of the authorisation for the feed additive 6-phytase, changed its business name into 'Kaesler Nutrition GmbH' with effect from 3 July 2017. The applicant has submitted relevant data supporting its request.

(3) The proposed change of the holder of the authorisation is purely administrative in nature and does not entail a fresh assessment of the additives concerned. The European Food Safety Authority was informed of the application.

(4) In order to enable Kaesler Nutrition GmbH to exploit its marketing rights, it is necessary to change the name of the holder in the authorisation. Implementing Regulation (EU) 2016/329 should therefore be amended accordingly.

(5) Since safety reasons do not require the immediate application of the amendments provided for by this Regulation, it is appropriate to provide for a transitional period during which the feed additive 6-phytase, as well as premixtures and compound feed containing that feed additive, which are in conformity with the provisions applying before the date of entry into force of this Regulation may continue to be placed on the market and used until the existing stocks are exhausted.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment to Implementing Regulation (EU) 2016/329

Implementing Regulation (EU) 2016/329 is amended as follows:

(1) in the title, the words 'holder of the authorisation Lohmann Animal Nutrition GmbH', are replaced by the words 'holder of the authorisation Kaesler Nutrition GmbH';

(2) in the Annex, in the second column of the table, entitled 'Name of the holder of authorisation', the words 'Lohmann Animal Nutrition GmbH' are replaced by the words 'Kaesler Nutrition GmbH'.

([1]) OJ L 268, 18.10.2003, p. 29.
([2]) Commission Implementing Regulation (EU) 2016/329 of 8 March 2016 concerning the authorisation of 6-phytase as a feed additive for all avian species and for weaned piglets, pigs for fattening, sows and minor porcine species (holder of authorisation Lohmann Animal Nutrition GmbH) (OJ L 62, 9.3.2016, p. 5).

Article 2

Transitional measures

The feed additive 6-phytase as set out in the Annex to Implementing Regulation (EU) 2016/329, as well as premixtures and compound feed containing that additive, which are produced and labelled before 25 December 2017 in accordance with the rules applicable before 25 December 2017 may continue to be placed on the market and used until the existing stocks are exhausted.

Article 3

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation is binding in its entirety and directly applicable in all Member States.

Done at Brussels, 4 December 2017.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2017/2232

of 4 December 2017

reimposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain footwear with uppers of leather originating in the People's Republic of China and Vietnam and produced by certain exporting producers in the People's Republic of China and Vietnam and implementing the judgment of the Court of Justice in Joined Cases C-659/13 and C-34/14

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union ('TFEU'), and in particular to Article 266 thereof,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ('the basic Regulation') ([1]), and in particular Article 9(4) and 14(1) and (3) thereof,

Whereas:

A. **PROCEDURE**

(1) On 23 March 2006, the Commission adopted Regulation (EC) No 553/2006 imposing provisional anti-dumping measures on imports of certain footwear with uppers of leather ('footwear') originating in the People's Republic of China ('PRC' or 'China') and Vietnam ('the provisional Regulation') ([2]).

(2) By Regulation (EC) No 1472/2006 ([3]), the Council imposed definitive anti-dumping duties ranging from 9,7 % to 16,5 % on imports of certain footwear with uppers of leather, originating in Vietnam and in the PRC for two years ('Regulation (EC) No 1472/2006' or 'the contested Regulation').

(3) By Regulation (EC) No 388/2008 ([4]), the Council extended the definitive anti-dumping measures on imports of certain footwear with uppers of leather originating in the PRC to imports consigned from the Macao Special Administrative Region ('SAR'), whether declared as originating in the Macao SAR or not.

(4) Further to an expiry review initiated on 3 October 2008 ([5]), the Council further extended the anti-dumping measures for 15 months by Implementing Regulation (EU) No 1294/2009 ([6]), i.e. until 31 March 2011, when the measures expired ('Implementing Regulation (EU) No 1294/2009').

(5) Brosmann Footwear (HK) Ltd, Seasonable Footwear (Zhongshan) Ltd, Lung Pao Footwear (Guangzhou) Ltd and Risen Footwear (HK) Co. Ltd as well as Zhejiang Aokang Shoes Co. Ltd ('the applicants') challenged the contested Regulation in the Court of First Instance (now: the General Court). By judgments of 4 March 2010 in Case T-401/06 *Brosmann Footwear (HK) and Others* v *Council* and of 4 March 2010 in Joined Cases T-407/06 and T-408/06 *Zhejiang Aokang Shoes and Wenzhou Taima Shoes* v *Council* the General Court rejected those challenges.

(6) The applicants appealed those judgments. In its judgments of 2 February 2012 in case C-249/10 P *Brosmann Footwear (HK) and Others* v *Council* and of 15 November 2012 in case C-247/10 P *Zhejiang Aokang Shoes* v *Council* ('the Brosmann and Aokang judgments'), the Court of Justice set aside those judgments. It held that the General

([1]) OJ L 176, 30.6.2016, p. 21.
([2]) OJ L 98, 6.4.2006, p. 3.
([3]) Council Regulation (EC) No 1472/2006 of 5 October 2006 imposing a definitive anti-dumping duty and collecting definitely the provisional duty imposed on imports of certain footwear with upper leather originating in the People's Republic of China and Vietnam (OJ L 275, 6.10.2006, p. 1).
([4]) Council Regulation (EC) No 388/2008 of 29 April 2008 extending the definitive anti-dumping measures imposed by Regulation (EC) No 1472/2006 on imports of certain footwear with uppers of leather originating in the People's Republic of China to imports of the same product consigned from the Macao SAR, whether declared as originating in the Macao SAR or not (OJ L 117, 1.5.2008, p. 1).
([5]) OJ C 251, 3.10.2008, p. 21.
([6]) Council Implementing Regulation (EU) No 1294/2009 of 22 December 2009 imposing a definitive anti-dumping duty on imports of certain footwear with uppers of leather originating in Vietnam and originating in the People's Republic of China, as extended to imports of certain footwear with uppers of leather consigned from the Macao SAR, whether declared as originating in the Macao SAR or not, following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 384/96 (OJ L 352, 30.12.2009, p. 1).

Court erred in law in so far as it held that the Commission was not required to examine requests for market economy treatment ('MET') under Article 2(7)(b) and (c) of the basic Regulation from non-sampled traders (paragraph 36 of the judgment in Case C-249/10 P and paragraph 29 and 32 of the judgment in Case C-247/10 P).

(7) The Court of Justice then gave judgment itself in the matter. It held that 'the Commission ought to have examined the substantiated claims submitted to it by the appellants pursuant to Article 2(7)(b) and (c) of the basic regulation for the purpose of claiming MET in the context of the anti-dumping proceeding [which is] the subject of the contested regulation. It must next be found that it cannot be ruled out that such an examination would have led to a definitive anti-dumping duty being imposed on the appellants other than the 16,5 % duty applicable to them pursuant to Article 1(3) of the contested regulation. It is apparent from that provision that a definitive anti-dumping duty of 9,7 % was imposed on the only Chinese trader in the sample which obtained MET. As is apparent from paragraph 38 above, had the Commission found that the market economy conditions prevailed also for the appellants, they ought, when the calculation of an individual dumping margin was not possible, also to have benefited from the same rate' (paragraph 42 of the judgment in Case C-249/10 P and paragraph 36 of the judgment in Case C-247/10 P).

(8) As a consequence, it annulled the contested Regulation, in so far as it relates to the applicants concerned.

(9) In October 2013, the Commission, by means of a notice published in the *Official Journal of the European Union* ([1]), announced that it had decided to resume the anti-dumping proceeding at the very point at which the illegality occurred and to examine whether market economy conditions prevailed for the applicants for the period from 1 April 2004 to 31 March 2005. That notice invited interested parties to come forward and make themselves known.

(10) In March 2014, the Council, by Council Implementing Decision 2014/149/EU ([2]), rejected a Commission proposal to adopt a Council Implementing Regulation reimposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on certain footwear with uppers of leather originating in the People's Republic of China and produced by Brosmann Footwear (HK) Ltd, Seasonable Footwear (Zhongshan) Ltd, Lung Pao Footwear (Guangzhou) Ltd, Risen Footwear (HK) Co. Ltd and Zhejiang Aokang Shoes Co. Ltd and terminated the proceedings with regard to these producers. The Council took the view that importers having bought shoes from those exporting producers, to whom the relevant customs duties had been reimbursed by the competent national authorities on the basis of Article 236 of Regulation (EEC) No 2913/1992 of 12 October 1992 establishing the Community Customs Code ([3]) ('the Community Customs Code'), had acquired legitimate expectations on the basis of Article 1(4) of the contested Regulation, which had rendered the provisions of the Community Customs Code, and in particular its Article 221, applicable to the collection of the duties.

(11) Three importers of the product concerned, C&J Clark International Ltd ('Clark'), Puma SE ('Puma') and Timberland Europe B.V. ('Timberland') ('the importers concerned') challenged the anti-dumping measures on imports of certain footwear from China and Vietnam invoking the jurisprudence mentioned in recitals 5 to 7 before their national Courts, which referred the matters to the Court of Justice for a preliminary ruling.

(12) On 4 February 2016, in the Joined Cases C-659/13 C & J Clark International Limited and C-34/14 Puma SE ([4]), the Court of Justice declared Regulation (EC) No 1472/2006 and Implementing Regulation (EU) No 1294/2009 invalid in so far as the European Commission did not examine the MET and individual treatment ('IT') claims submitted by exporting producers in the PRC and Vietnam that were not sampled ('the judgments'), contrary to the requirements laid down in Articles 2(7)(b) and 9(5) of Council Regulation (EC) No 384/96 ([5]).

(13) Regarding Case C-571/14 Timberland Europe, the Court of Justice decided on 11 April 2016 to remove the case from the register at the request of the referring national court.

([1]) OJ C 295, 11.10.2013, p. 6.
([2]) Council Implementing Decision 2014/149/EU of 18 March 2014 rejecting the proposal for an Implementing Regulation reimposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on certain footwear with uppers of leather originating in the People's Republic of China and produced by Brosmann Footwear (HK) Ltd, Seasonable Footwear (Zhongshan) Ltd, Lung Pao Footwear (Guangzhou) Ltd, Risen Footwear (HK) Co. Ltd and Zhejiang Aokang Shoes Co. Ltd (OJ L 82, 20.3.2014, p. 27).
([3]) OJ L 302, 19.10.1992, p. 1.
([4]) OJ C 106, 21.3.2016, p. 2.
([5]) Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (OJ L 56, 6.3.1996, p. 1).

(14) Article 266 TFEU provides that the institutions must take the necessary measures to comply with the Court's judgments. In case of annulment of an act adopted by the institutions in the context of an administrative procedure, such as anti-dumping, compliance with the Court's judgment consists in the replacement of the annulled act by a new act, in which the illegality identified by the Court is eliminated ([1]).

(15) According to the case-law of the Court, the procedure for replacing the annulled act may be resumed at the very point at which the illegality occurred ([2]). That implies in particular that in a situation where an act concluding an administrative procedure is annulled, that annulment does not necessarily affect the preparatory acts, such as the initiation of the anti-dumping procedure. In a situation where a regulation imposing definitive anti-dumping measures is annulled, that means that, subsequent to the annulment, the anti-dumping proceeding is still open, because the act concluding the anti-dumping proceeding has disappeared from the Union legal order ([3]), except if the illegality occurred at the stage of initiation.

(16) Apart from the fact that the institutions did not examine the MET and IT claims submitted by exporting producers in the PRC and Vietnam that were not sampled, all other findings made in Regulation (EC) No 1472/2006 and Implementing Regulation (EU) No 1294/2009 remain valid.

(17) In the present case, the illegality occurred after initiation. Hence, the Commission decided to resume the present anti-dumping proceeding that was still open following the judgments at the very point at which the illegality occurred and to examine whether market economy conditions prevailed for the exporting producers concerned for the period from 1 April 2004 to 31 March 2005, which was the investigation period ('investigation period'). The Commission also examined, where appropriate, whether the exporting producers concerned qualified for IT in accordance with 9(5) of Council Regulation (EC) No 1225/2009 ([4]) (the 'basic Regulation prior to its amendment') ([5]).

(18) By Implementing Regulation (EU) 2016/1395 ([6]), the Commission reimposed a definitive anti-dumping duty and collected definitely the provisional duty imposed on imports of Clark and Puma of certain footwear with uppers of leather originating in the PRC and produced by thirteen Chinese exporting producers that have submitted MET and IT claims but that had not been sampled.

(19) By Implementing Regulation (EU) 2016/1647 ([7]), the Commission reimposed a definitive anti-dumping duty and collected definitely the provisional duty imposed on imports of Clark, Puma and Timberland of certain footwear with uppers of leather originating in Vietnam and produced by certain Vietnamese exporting producers that had submitted MET and IT claims, but had not been sampled.

([1]) Joined Cases 97, 193, 99 and 215/86 *Asteris AE and others and Hellenic Republic* v *Commission* [1988] ECR 2181, paragraphs 27 and 28.

([2]) Case C-415/96 *Spain* v *Commission* [1998] ECR I-6993, paragraph 31; Case C-458/98 P *Industrie des Poudres Sphériques* v *Council* [2000] I-8147, paragraphs 80 to 85; Case T-301/01 *Alitalia* v *Commission* [2008] II-1753, paragraphs 99 and 142; Joined Cases T-267/08 and T-279/08 *Région Nord-Pas de Calais* v *Commission* [2011] II-1999, paragraph 83.

([3]) Case C-415/96 *Spain* v *Commission* [1998] ECR I-6993, paragraph 31; Case C-458/98 P *Industrie des Poudres Sphériques* v *Council* [2000] I-8147, paragraphs 80 to 85.

([4]) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51).

([5]) Regulation (EC) No 1225/2009 was subsequently amended by Regulation (EU) No 765/2012 of the European Parliament and of the Council of 13 June 2012 amending Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community (OJ L 237, 3.9.2012, p. 1). According to Article 2 of Regulation (EU) No 765/2012, the amendments introduced by that amending Regulation only apply to investigations initiated after the entry into force of that Regulation. The present investigation, however, was initiated on 7 July 2005 (OJ C 166, 7.7.2005, p. 14).

([6]) Commission Implementing Regulation (EU) 2016/1395 of 18 August 2016 reimposing a definitive anti-dumping duty and collecting definitely the provisional duty imposed on imports of certain footwear with uppers of leather originating in the People's Republic of China and produced by Buckinghan Shoe Mfg Co., Ltd, Buildyet Shoes Mfg., DongGuan Elegant Top Shoes Co. Ltd, Dongguan Stella Footwear Co. Ltd, Dongguan Taiway Sports Goods Limited, Foshan City Nanhai Qun Rui Footwear Co., Jianle Footwear Industrial, Sihui Kingo Rubber Shoes Factory, Synfort Shoes Co. Ltd, Taicang Kotoni Shoes Co. Ltd, Wei Hao Shoe Co. Ltd, Wei Hua Shoe Co. Ltd, Win Profile Industries Ltd, and implementing the judgment of the Court of Justice in joined cases C-659/13 and C-34/14 (OJ L 225, 19.8.2016, p. 52).

([7]) Commission Implementing Regulation (EU) 2016/1647 of 13 September 2016 reimposing a definitive anti-dumping duty and collecting definitely the provisional duty imposed on imports of certain footwear with uppers of leather originating in Vietnam and produced by Best Royal Co. Ltd, Lac Cuong Footwear Co., Ltd, Lac Ty Co., Ltd, Saoviet Joint Stock Company (Megastar Joint Stock Company), VMC Royal Co. Ltd, Freetrend Industrial Ltd and its related company Freetrend Industrial A (Vietnam) Co., Ltd, Fulgent Sun Footwear Co., Ltd, General Shoes Ltd, Golden Star Co., Ltd, Golden Top Company Co., Ltd, Kingmaker Footwear Co. Ltd, Tripos Enterprise Inc., Vietnam Shoe Majesty Co., Ltd, and implementing the judgment of the Court of Justice in joined cases C-659/13 and C-34/14 (OJ L 245, 14.9.2016, p. 16).

(20) By Implementing Regulation (EU) 2016/1731 ([1]), the Commission reimposed a definitive anti-dumping duty and collected definitely the provisional duty imposed on imports of Puma and Timberland of certain footwear with uppers of leather originating in the People's Republic of China and produced by one exporting producer in Vietnam and by two exporting producers in the PRC that submitted MET and IT claims, but had not been sampled.

(21) The validity of Regulation (EU) 2016/1395, Regulation (EU) 2016/1647 and Regulation (EU) 2016/1731 has been challenged by Puma and Timberland at the General Court in Cases T-781/16 *Puma and Others* v *Commission* and T-782/16 *Timberland Europe* v *Commission*. Furthermore, the validity of Regulation (EU) 2016/1395 has also been challenged at the General Court by Clark in Cases T-790/16 *C & J Clark International* v *Commission* and T-861/16 *C & J Clark International* v *Commission*.

(22) In view of the implementation of the judgment in Joined Cases C-659/13 C & J Clark International Limited and C-34/14 Puma SE mentioned in recital 12, the Commission adopted on 17 February 2016 Implementing Regulation (EU) 2016/223 establishing a procedure for assessing certain market economy treatment and individual treatment claims made by exporting producers from China and Vietnam, and implementing the judgment of the Court of Justice in Joined Cases C-659/13 and C-34/14 ([2]). In Article 1 of that regulation, the Commission instructed national customs authorities to forward all requests for reimbursement of the definitive anti-dumping duties paid on imports of footwear originating in China and Vietnam made by importers based on Article 236 of the Community Customs Code and based on the fact that a non-sampled exporting producer had requested MET or IT in the investigation that lead to the imposition of the definitive measures by Regulation (EC) No 1472/2006 ('original investigation'). The Commission shall assess the relevant MET or IT claim and reimpose the appropriate duty rate. On this basis the national customs authorities should subsequently decide on the request for repayment and remission of the anti-dumping duties.

(23) Following a notification from the French customs authorities in accordance with Article 1 of Implementing Regulation (EU) 2016/223, the Commission identified two Chinese exporting producers that provided MET and IT claims in the original investigation but that had not been sampled. Another exporting producer was identified that was supplier of Deichmann, a German importer that contested the payment of duties. Consequently, the Commission analysed the MET and IT claim form from these three Chinese exporting producers.

(24) As a result of the above, by Implementing Regulation (EU) 2016/2257 ([3]), the Commission reimposed a definitive anti-dumping duty and collected definitely the provisional duty imposed on imports certain footwear with uppers of leather originating in the People's Republic of China and produced by three exporting producers that had submitted MET and IT claims but that had not been sampled.

(25) In accordance with Article 1 of Implementing Regulation (EU) 2016/223, the UK, Belgian ('BE'), and Swedish ('SE') customs authorities notified the Commission reimbursement claims of importers on 12 July 2016 (UK), 13 July 2016 (BE) and 26 July 2016 (SE). As a result of these notifications, the Commission analysed MET and IT claims from nineteen exporting producers and, by Regulation (EU) 2017/423 ([4]), reimposed a definitive anti-dumping duty and collected definitely the provisional duty imposed on imports certain footwear with uppers of leather originating in the PRC and Vietnam and produced by these nineteen exporting producers.

([1]) Commission Implementing Regulation (EU) 2016/1731 of 28 September 2016 reimposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain footwear with uppers of leather originating in the People's Republic of China and Vietnam and produced by General Footwear Ltd (China), Diamond Vietnam Co. Ltd and Ty Hung Footgearmex/Footwear Co. Ltd and implementing the judgment of the Court of Justice in joined cases C-659/13 and C-34/14 (OJ L 262, 29.9.2016, p. 4).

([2]) OJ L 41, 18.2.2016, p. 3.

([3]) Commission Implementing Regulation (EU) 2016/2257 of 14 December 2016 reimposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain footwear with uppers of leather originating in the People's Republic of China and produced by Chengdu Sunshine Shoes Co. Ltd, Foshan Nanhai Shyang Yuu Footwear Ltd and Fujian Sunshine Footwear Co. Ltd and implementing the judgment of the Court of Justice in joined cases C-659/13 and C-34/14 (OJ L 340I, 15.12.2016, p. 1).

([4]) Commission Implementing Regulation (EU) 2017/423 of 9 March 2017 reimposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain footwear with uppers of leather originating in the People's Republic of China and Vietnam and produced by Fujian Viscap Shoes Co. Ltd, Vietnam Ching Luh Shoes Co. Ltd, Vinh Thong Producing-Trading-Service Co. Ltd, Qingdao Tae Kwang Shoes Co. Ltd, Maystar Footwear Co. Ltd, Lien Phat Company Ltd, Qingdao Sewon Shoes Co. Ltd, Panyu Pegasus Footwear Co. Ltd, PanYu Leader Footwear Corporation, Panyu Hsieh Da Rubber Co. Ltd, An Loc Joint Stock Company, Qingdao Changshin Shoes Company Limited, Chang Shin Vietnam Co. Ltd, Samyang Vietnam Co. Ltd, Qingdao Samho Shoes Co. Ltd, Min Yuan, Chau Giang Company Limited, Foshan Shunde Fong Ben Footwear Industrial Co. Ltd and Dongguan Texas Shoes Limited Co. implementing the judgment of the Court of Justice in Joined Cases C-659/13 and C-34/14 (OJ L 64, 10.3.2017, p. 72).

(26) During the above investigation, through comments made by several interested parties following disclosure, five additional companies/company groups were identified that had either themselves or via a related Chinese or Vietnamese exporting producer submitted a MET and IT claim form during the original investigation, but that were not sampled and that had not been assessed in any previous implementation exercise. These companies were listed in Annex VI to Regulation (EU) 2017/423 and were part of four company groups.

(27) On this basis, the Commission identified four company groups comprising together seven individual companies that were Chinese or Vietnamese exporting producers that were not sampled in the original investigation and assessed the MET and IT claim forms that these companies had submitted during the original investigation. As a result, by Implementing Regulation (EU) 2017/1982 ([1]), the Commission reimposed a definitive anti-dumping duty and collected definitely the provisional duty imposed on imports certain footwear with uppers of leather originating in the People's Republic of China and produced by these exporting producers that had submitted MET and IT claims but that had not been sampled.

(28) In addition, in Article 3 of the Implementing Regulation (EU) 2017/423, the Commission temporarily suspended the assessment of the situation of companies listed in its Annex III until the importer claiming reimbursement from national customs authorities has informed the Commission of names and addresses of the exporting producers concerned from which traders have purchased the footwear. Indeed, while the Commission considers that the burden of proof to identify the relevant exporting producers in China and/or Vietnam lies with the importers requesting reimbursement of the anti-dumping duties paid, it also recognised that not all importers that bought footwear from traders may have been aware of the need to inform the Commission of the names of the exporting producers from which those traders acquired their footwear. Therefore, the Commission specifically contacted all importers concerned by the UK, Belgian, and Swedish notifications and invited them to provide the necessary information, i.e. the names and addresses of the exporting producers in the PRC or Vietnam within a specified deadline.

(29) As a consequence, three importers, i.e. Pentland Brands Ltd, Puma UK Ltd and Deichmann Shoes UK Ltd provided the names and addresses of their respective suppliers in China and/or Vietnam on 18 April 2017 (Puma UK Ltd), on 27 April 2017 (Pentland Brands Ltd) and on 15 May 2017 (Deichmann Shoes UK Ltd), respectively.

(30) On 7 April 2017, in accordance with Article 1 of Implementing Regulation (EU) 2016/223, the customs authorities of Germany notified the Commission reimbursement claims of importers in the Union and provided supporting documents. On 20 June 2017, the customs authorities of Germany sent an addendum to their original notification and notified the Commission additional claims of importers.

(31) On 23 May 2017, in accordance with Article 1 of Implementing Regulation (EU) 2016/223, the customs authorities of the Netherlands notified the Commission reimbursement claims of importers in the Union and provided supporting documents. On 21 July 2017, the customs authorities of the Netherlands sent an addendum to their original notification and notified the Commission additional claims of importers.

(32) As a result, the Commission received names and addresses of a total of 600 companies that were reported as suppliers of footwear in the PRC and Vietnam.

(33) For 431 of these companies (listed in the Annex III to this Regulation) the Commission has no record that these companies had submitted any MET or IT claim form in the original investigation. These companies were also not able to demonstrate that they were related to any of the Chinese or Vietnamese exporting producers that had provided a MET/IT claim in the original investigation.

([1]) Commission Implementing Regulation (EU) 2017/1982 of 31 October 2017 reimposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain footwear with uppers of leather originating in the People's Republic of China and Vietnam and produced by Dongguan Luzhou Shoes Co. Ltd, Dongguan Shingtak Shoes Co. Ltd, Guangzhou Dragon Shoes Co. Ltd, Guangzhou Evervan Footwear Co. Ltd, Guangzhou Guangda Shoes Co. Ltd, Long Son Joint Stock Company and Zhaoqing Li Da Shoes Co., Ltd, implementing the judgment of the Court of Justice in Joined Cases C-659/13 and C-34/14 (OJ L 285, 1.11.2017, p. 14).

(34) Out of the remaining companies, 19 exporting producers were already assessed individually or as part of a company group selected in the sample of Chinese or Vietnamese exporting producers in the context of the original investigation (listed in the Annex IV to this Regulation). As none of these companies received an individual duty rate, the duty for the PRC of 16,5 % or of 10 % for Vietnam, is applied to imports of footwear from these companies respectively. These rates were not affected by the judgment mentioned in recital 12.

(35) Out of the remaining companies, 72 exporting producers (listed in Annex V to this Regulation) were already assessed either individually or as part of a company group in the context of the implementation of the judgment mentioned in recital 12: namely, in Implementing Decision 2014/149/EU or in Implementing Regulations (EU) 2016/1395, (EU) 2016/1647, (EU) 2016/1731, (EU) 2016/2257 and (EU) 2017/1982 respectively.

(36) Companies or company groups assessed by Implementing Decision 2014/149/EU were not made subject to any reimposition of an anti-dumping duty, as mentioned in recital 10, on the basis that the reimbursement of duties to these companies had already taken place and thus provided legitimate expectations to them that no such reimposition would occur. The reimbursement claims of importers in the Union relating to companies or company groups assessed by Implementing Regulations (EU) 2016/1395, (EU) 2016/1647, (EU) 2016/1731, (EU) 2016/2257 and (EU) 2017/1982, should, on the other hand, not be granted. This is because these importers find themselves in a different legal situation than those assessed by Implementing Decision 2014/149/EU, having notably not gained legitimate expectations.

(37) The remaining 70 companies (listed in Annex II to this Regulation) were Chinese or Vietnamese exporting producers that were not sampled in the original investigation and that had submitted an MET/IT claim form. The Commission therefore assessed the MET and IT claims provided by these companies.

(38) In summary, in this Regulation, the Commission assessed the MET/IT claim forms of: Aiminer Leather Products Co., Ltd, Best Health Ltd, Best Run Worldwide Co. Ltd, Bright Ease Shoe Factory, Cambinh Shoes Company, Dong Anh Footwear Joint Stock Company, Dong Guan Bor Jiann Footwear Co., Ltd, Dongguan Hongguo Shoes Co. Ltd, Freetrend Industrial Ltd, Freeview Company Ltd, Dongguan Hopecome Footwear Co. Ltd, Dongguan Houjie Baihou Hua Jian Footwear Factory, Dongguan Qun Yao Shoe Co., Ltd, Dongyi Shoes Co., Ltd, Doozer (Fujian) Shoes Co., Ltd, Emperor (VN) Co., Ltd, Everlasting Industry Co., Ltd, Fu Jian Ching Luh Shoes Co., Ltd, Fu Jian Lion Score Sport Products Co., Ltd, Fujian Footwear & Headgear Import & Export (Holdings) Co., Ltd, Fujian Jinjiang Guohui Footwear & Garment Co., Ltd, Gan Zhou Hua Jian International Footwear Co., Ltd, Golden Springs Shoe Co., Ltd, Haiduong Shoes Stock Company, Hangzhou Forever Shoes Factory, Hua Jian Industrial Holding Co., Ltd, Huu Nghi Danang Company, Hwa Seung Vina Co., Ltd, Jason Rubber Works Ltd, Jinjiang Hengdali Footwear Co., Ltd, Jinjiang Xiangcheng Footwear and Plastics Co., Ltd, JinJiang Zhenxing Shoes & Plastic Co., Ltd, Juyi Group Co., Ltd, K Star Footwear Co., Ltd, Kangnai Group Wenzhou Lucky Shoes and Leather Co., Ltd, Khai Hoan Footwear Co., Ltd, Lian Jiang Ching Luh Shoes Co., Ltd, Li-Kai Shoes Manufacturing Co., Ltd, New Star Shoes Factory, Ngoc Ha Shoe Company, Nhi Hiep Transportation Construction Company Limited, Ophelia Shoe Co., Ltd, Ormazed Shoes (Zhao Qing City) Ltd, Ormazed Shoes Ltd (Dong Guan) Ltd, Pacific Joint — Venture Company, Phuc Yen Shoes Factory, Phuha Footwear Enterprise, Phuhai Footwear Enterprise, Phulam Footwear Joint Stock Company, Putian Dajili Footwear Co., Ltd, Right Rich Development VN Co., Ltd, Saigon Jim Brother Corporation, Shenzhen Harson Shoes Ltd, Shunde Sunrise (II) Footwear Co., Ltd, Splendour Enterprise Co., Ltd, Stellar Footwear Co., Ltd, Sung Hyun Vina Co., Ltd, Synco Footwear Ltd, Thai Binh Shoes Joint Stock Company, Thang Long Shoes Company, Thanh Hung Co., Ltd, Thuy Khue Shoes Company Ltd, Truong Loi Shoes Company Limited, Wenzhou Chali Shoes Co., Ltd, Wenzhou Dibang Shoes Co., Ltd, Wenzhou Gold Emperor Shoes Co., Ltd, Xiamen Sunchoose Import & Export Co., Ltd, Xingtaiy Footwear Industry & Commerce Co., Ltd, Zhuhai Shi Tai Footwear Company Limited, and Zhuhai Shun Tai Footwear Company Limited.

B. **IMPLEMENTATION OF THE JUDGMENT OF THE COURT OF JUSTICE IN JOINED CASES C-659/13 AND C-34/14 FOR IMPORTS FROM CHINA AND VIETNAM**

(39) The Commission has the possibility to remedy the aspects of the contested Regulation which led to its annulment, while leaving unchanged the parts of the assessment which are not affected by the judgment ([1]).

(40) This Regulation seeks to correct the aspects of the contested Regulation found to be inconsistent with the basic Regulation, and which thus led to the declaration of invalidity in so far as the exporting producers mentioned in recital 30 are concerned.

([1]) Case C-458/98 P *Industrie des Poudres Sphériques* v *Council*, ECLI:EU:C:2000:531, paragraphs 80 to 85.

(41) All other findings made in the contested Regulation and in Implementing Regulation (EU) No 1294/2009, which were not declared invalid by the Court, remain valid and are herewith incorporated into this Regulation.

(42) Therefore, the following recitals are limited to the new assessment necessary in order to comply with the judgments of the Court.

(43) The Commission has examined whether MET or IT prevailed for the exporting producers concerned mentioned in recital 38 which submitted MET/IT requests for the investigation period. The purpose of this determination is to ascertain the extent to which the importers concerned are entitled to receive a repayment of the anti-dumping duty paid with regard to anti-dumping duties paid on exports of these suppliers.

(44) Should the analysis reveal that MET was to be granted to the exporting producers concerned whose exports were subject to the anti-dumping duty paid by the importers concerned, an individual duty rate would have to be attributed to that exporting producer and the repayment of the duty would be limited to an amount corresponding to a difference between the duty paid and the individual duty rate, i.e. in case of imports from China, the difference between 16,5 %, and the duty imposed on the only exporting company in the sample that obtained MET, namely 9,7 %; and, in case of imports from Vietnam, the difference between 10 % and the individual duty rate calculated for the exporting producer concerned, if any.

(45) Should the analysis reveal that IT was to be granted to an exporting producer for which MET was rejected, an individual duty rate would have to be attributed to the exporting producer concerned and the repayment of the duty would be limited to an amount corresponding to a difference between the duty paid, i.e. in case of imports from China 16,5 % and in case of imports from Vietnam 10 %, and the individual duty calculated for the exporting producer concerned, if any.

(46) Conversely, should the analysis of such MET and IT claims reveal that both MET and IT should be rejected, no repayment of anti-dumping duties can be awarded.

(47) As explained in recital 12, the Court of Justice annulled the contested Regulation and Implementing Regulation (EU) No 1294/2009 with regard to exports of certain footwear from certain Chinese and Vietnamese exporting producers, in so far as the Commission did not examine the MET and IT claims submitted by these exporting producers.

(48) The Commission has therefore examined the MET and IT claims of the exporting producers concerned in order to determine the duty rate applicable to their exports. That assessment showed that the information provided did not demonstrate that the exporting producers concerned operated under market economy conditions or that they qualified for individual treatment (see for a detailed explanation below recitals 49 and following).

1. **Assessment of the MET claims**

(49) It is necessary to point out that the burden of proof lies with the producer wishing to claim MET under Article 2(7)(b) of the basic Regulation. To that end, the first subparagraph of Article 2(7)(c) provides that the claim submitted by such a producer must contain sufficient evidence, as laid down in that provision, that the producer operates under market economy conditions. Accordingly, there is no obligation on the Union institutions to prove that the producer does not satisfy the conditions laid down for the recognition of such status. On the contrary, it is for the Union institutions to assess whether the evidence supplied by the producer concerned is sufficient to show that the criteria laid down in the first subparagraph of Article 2(7)(c) of the basic Regulation are fulfilled in order to grant it MET and it is for the Union judicature to examine whether that assessment is vitiated by a manifest error (paragraph 32 of the judgment in Case C-249/10 P and paragraph 24 of the judgment in Case C-247/10 P).

(50) In accordance with Article 2(7)(c) of the basic Regulation, all five criteria listed in this article should be met so that an exporting producer can be granted MET. Therefore, the Commission considered that the failure to meet at least one criterion was enough to reject the MET request.

(51) None of the exporting producers concerned was able to demonstrate that they met criterion 1 (Business decisions). More specifically, the Commission found that Companies 34, 36, 37, 38, 39, 42, 43, 44, 45, 46, 47,

48, 53, 54, 58, 65, 66, 67, 69, 72, 77, 79, 80, 82, 84, 85, 88, 89, 92, 93, 94, 96, 97, 98, 99, 100, 101 and 102 ([1]) could not determine freely their sales quantities for domestic and exporting markets. In this respect, the Commission established that there were limitations on the output and/or a limitation to sales quantities on specific markets (domestic and export). Certain Companies 33, 35, 39, 49, 50, 51, 52, 53, 54, 55, 58, 59, 60, 61, 62, 63, 66, 67, 68, 69, 70, 72, 73, 74, 75, 77, 81, 83, 84, 85, 86, 87, 91, 96, 97, 101 and 102 did not provide sufficient information on their ownership structure, shareholder, board of directors, or the selection of directors to demonstrate that their business decisions were taken in accordance with market signals without significant State interference. Furthermore, certain companies failed to provide a business licence or an English translation thereof (Companies 33, 35, 59, 60, 62, 81 and 87), or failed to provide the Articles of Association or an English translation thereof (Companies 34, 40, 41, 51, 59, 63, 64, 95, 101 and 102). Additionally, certain companies did not provide sufficient information on their suppliers (Companies 42, 43, 44, 46, 49, 51, 57, 60, 64, 65, 69, 74, 76 and 95) or were unable to demonstrate that the selection of labour was sufficiently independent from local authorities (Companies 38, 39, 42, 45 and 46) and therefore did not provide sufficient evidence that business decisions were taken without significant state interference.

(52) Additionally, Companies 33, 34, 35, 40, 41, 43, 44, 45, 46, 47, 48, 49, 50, 51, 57, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 72, 73, 74, 75, 76, 79, 80, 81, 82, 84, 85, 86, 87, 88, 91, 93, 94, 95, 96, 97, 100, 101 and 102 were not able to demonstrate they met criterion 2 (Accounting). More specifically, Companies 33, 43, 45, 46, 47, 48, 49, 50, 51, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 73, 74, 75, 76, 79, 80, 81, 82, 84, 85, 86, 87, 88, 91, 93, 94, 96, 97, 101 and 102 failed to demonstrate that they had a set of basic accounting records independently audited in line with international accounting standards. In particular, the MET assessments revealed that these companies either failed to provide the Commission with an independent auditor opinion/report, or their accounts were not audited, or lacked explanatory notes on several items of the balance sheet and income statement. Other companies failed to provide an English translation thereof (Companies 34, 35, 40, 41, 51, 57, 69, 70, 95 and 100). Furthermore, the audited accounts of certain Companies 43, 44, 45, 57, 65 and 72 were found to have significant inconsistencies, inter alia, discrepancies in the data reported for different years, differences between the original version and the English translation, doubt on the correctness of depreciation method, inventory and stock taking, or problems noted by the auditors' report that were not corrected subsequently. Therefore these companies did not fulfil criterion 2.

(53) Regarding criterion 3 (Assets and 'carry over'), several companies failed to demonstrate that no distortions are carried over from the non-market economy system. In particular, the Companies 33, 34, 35, 36, 37, 38, 39, 42, 43, 44, 47, 48, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 70, 72, 74, 75, 76, 77, 80, 81, 83, 84, 85, 86, 87, 88, 91, 94, 95, 96, 97, 101 and 102 failed to provide essential and complete information about the terms and the value of the land use-rights. Furthermore, Companies 34, 35, 37, 38, 39, 42, 43, 45, 46, 52, 53, 54, 57, 60, 63, 65, 66, 72, 77, 79, 84, 85, 87, 93, 94, 95 and 98 did not provide information on deviations from the standard tax rate or the track of payment of this tax, while Companies 37, 42, 43, 44, 57, 84, 87 and 94 failed to provide information on their electricity supply or price. Companies 40 and 41 did not provide an English translation of essential information concerning their assets.

(54) As for criterion 4 (Legal environment), Companies 76, 101 and 102 failed to demonstrate that they operated under bankruptcy and property laws that guarantee stability and legal certainty.

(55) Company 70 failed to demonstrate that it met Criterion 5 (Currency exchange) since, according to the Notes to the accounts, the company used a fixed exchange rate for the foreign currency business, which is not in line with criterion 5 which stipulates that exchange rate conversions are carried out at the market rate.

(56) Furthermore, the Companies 56, 71, 78 and 90 failed to provide evidence on the production of the product concerned, ownership of the main raw materials, ownership of the product concerned and control over the price setting. Their MET claims were therefore not subject to a detailed analysis.

([1]) In order to protect confidentiality, company names have been replaced by numbers. Companies 1 to 3 have been subject to Implementing Regulation (EU) 2016/1731 mentioned in recital 20, while Companies 4 to 6 have been subject to Implementing Regulation (EU) 2016/2257 mentioned in recital 24. The Companies 7 to 25 have been subject to Implementing Regulation (EU) 2017/423 mentioned in recital 26, and the Companies 26 to 32 have been subject to Implementing Regulation (EU) 2017/1982 mentioned in recital 27. The companies concerned by the current Regulation were attributed the consecutive numbers 33 to 102.

(57) The Commission informed the exporting producers concerned that none of them should be granted MET and invited them to provide comments. No comments were received.

(58) Therefore, none of the seventy exporting producers concerned fulfilled all the conditions set out in Article 2(7)(c) of the basic Regulation and MET is, as a result, rejected for all of them.

2. **Assessment of the IT claims**

(59) Pursuant to Article 9(5) of the basic Regulation prior to its amendment, where Article 2(7)(a) of the same Regulation applies, an individual duty shall however be specified for the exporters which can demonstrate that they meet all criteria set out in Article 9(5) of the basic Regulation prior to its amendment.

(60) As mentioned in recital 49 it is necessary to point out that the burden of proof lies with the producer wishing to claim IT under Article 9(5) of the basic Regulation prior to its amendment. To that end, the first subparagraph of Article 9(5) of the basic Regulation prior to its amendment provides that the claim submitted must be properly substantiated. Accordingly, there is no obligation on the Union institutions to prove that the exporter does not satisfy the conditions laid down for the recognition of such status. On the contrary, it is for the Union institutions to assess whether the evidence supplied by the exporter concerned is sufficient to show that the criteria laid down in Article 9(5) of the basic Regulation prior to its amendment are fulfilled in order to grant IT.

(61) In accordance with Article 9(5) of the basic Regulation prior to its amendment, exporters should demonstrate on the basis of a properly substantiated claim that all five criteria listed therein are met so that they can be granted IT. Therefore, the Commission considered that the failure to meet at least one criterion was enough to reject the IT claim.

(62) The five criteria are the following:

(1) in the case of wholly or partly foreign owned firms or joint ventures, exporters are free to repatriate capital and profits;

(2) export prices and quantities, and conditions and terms of sale are freely determined;

(3) the majority of the shares belong to private persons; state officials appearing on the board of directors or holding key management positions shall either be in minority or it must be demonstrated that the company is nonetheless sufficiently independent from State interference;

(4) exchange rate conversions are carried out at the market rate; and

(5) State interference is not such as to permit circumvention of measures if individual exporters are given different rates of duty.

(63) All seventy exporting producers concerned that requested MET also claimed IT in the event that they would not be granted MET. The Commission therefore assessed the IT claims of each exporting producer concerned, in addition to rejecting their MET claims as described in recitals 49 to 57.

(64) Regarding criterion 1 (Repatriation of capital and profits), Companies 69, 77, 86 and 95 failed to prove that they were free to repatriate capital and profits and did thus not demonstrate that this criterion was fulfilled.

(65) With regard to criterion 2 (Export sales and prices freely determined), Companies 33, 34, 35, 36, 37, 40, 41, 43, 44, 45, 46, 47, 48, 52, 53, 54, 58, 59, 60, 62, 64, 66, 67, 69, 72, 74, 75, 79, 80, 82, 84, 85, 88, 89, 92, 93, 94, 95, 96, 97, 98, 99 and 100 failed to prove that business decisions such as export prices and quantities, and conditions and terms of sale were freely determined in response to market signals, as the evidence analysed, such as articles of association or business licences, showed a limitation in output and/or on the sales quantities of footwear in specific markets.

(66) As regards criterion 3 (Company — key management and shares — is sufficiently independent from State interference), Companies 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 49, 50, 51, 52, 53, 54, 55, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 72, 73, 74, 75, 76, 77, 80, 81, 82, 83, 84, 85, 86, 87, 91, 93, 94, 95, 96, 97, 98, 101 and 102 failed to demonstrate that business decisions were made sufficiently independent from State interference. Inter alia, no information or insufficient information was provided as regards the ownership structure of the company and how the decisions were taken. In addition, Companies 33, 34, 35, 36, 37, 38, 39, 42, 43, 44, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 70, 72, 74, 75, 76, 77, 80, 81, 83, 84, 85, 86,

87, 91, 94, 95, 96, 97, 101, 102 did not provide sufficient information on how the land use right were transferred to these companies and at what terms and conditions. Companies 33, 34, 35, 40, 41, 51, 59, 62, 81 and 95 failed to provide an English translation of the relevant documents.

(67) Finally, Company 70 failed to demonstrate that exchange rate conversions were carried out at the market rate. Therefore, it did not fulfil the requirements of criterion 4 (Market based exchange rate).

(68) In addition, Companies 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 49, 50, 51, 52, 53, 54, 55, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 72, 73, 74, 75, 76, 77, 80, 81, 82, 83, 84, 85, 86, 87, 91, 93, 94, 95, 96, 97, 98, 101 and 102 also failed to prove that they fulfilled the requirements of criterion 5 (Circumvention) on the basis that no information was provided as to how decisions were taken within the company and whether the State exerted significant influence in this decision making of the company.

(69) Furthermore, the Companies 56, 71, 78 and 90 failed to provide evidence on the production of the product concerned, ownership of the main raw materials, ownership of the product concerned and control over the price setting. Their IT claims were therefore not subject to a detailed analysis.

(70) In light of the above, none of the seventy exporting producers concerned fulfilled the conditions set out in Article 9(5) of the basic Regulation prior to its amendment and IT was therefore denied to all of them. The Commission informed the exporting producers concerned accordingly and invited them to provide comments. No comments were received.

(71) The residual anti-dumping duty applicable to China and Vietnam, of 16,5 % and 10 % respectively, should therefore be imposed for exports made by the seventy exporting producers concerned for the period of application of Regulation (EC) No 1472/2006. The period of application of that regulation was initially from 7 October 2006 until 7 October 2008. Following the initiation of an expiry review, it was prolonged on 30 December 2009 until 31 March 2011. The illegality identified in the judgments is that the Union institutions failed to establish whether the products produced by the exporting producers concerned should be subject to the residual duty or to an individual duty. On the basis of the illegality identified by the Court, there is no legal ground for completely exempting the products produced by the exporting producers concerned from any anti-dumping duty. A new act remedying the illegality identified by the Court therefore only needs to reassess the applicable anti-dumping duty rate, and not the measures themselves.

(72) Since the Commission concluded that the residual duty applicable to China and Vietnam respectively should be reimposed in respect of the exporting producers concerned at the same rate as originally imposed by the contested Regulation and Implementing Regulation (EU) No 1294/2009, no changes are required to Regulation (EC) No 388/2008. That latter regulation remains valid.

C. **COMMENTS OF INTERESTED PARTIES AFTER DISCLOSURE**

(73) Following disclosure, the Commission received comments on behalf of (i) FESI and the Footwear Coalition ([1]) representing importers of footwear in the Union; (ii) C&J Clark International, Cortina, Deichmann and Wortmann ('Clarks et al'), importers of footwear in the Union, (iii) Sino Pro Trading, and (iv) Schuhhaus SIEMES Einkaufs & Beteiligungs GmbH ('SIEMES'), both importers of footwear from China and Vietnam.

Companies listed in Annex III to this Regulation

(74) FESI and the Footwear Coalition claimed that according to the Commission's open file a company named Fortune Footwear Co. Ltd submitted an MET/IT claim for the investigation period and therefore should not be listed in Annex III to this Regulation. However, there is no record of any MET/IT claim submitted by this company and FESI and the Footwear Coalition did not provide any further evidence that this company indeed submitted such claim. Therefore this claim is rejected.

(75) FESI and the Footwear Coalition also claimed that a company named Foshan Nanhai Shyang Yuu/Hu Footwear was incorrectly listed in Annex III since this company had allegedly submitted an MET/IT claim. There is however no company named Foshan Nanhai Shyang Yuu/Hu Footwear listed in Annex III or any other Annex to this Regulation. A company with a similar name (Nanhai Shyang Ho Footwear Co. Ltd) is listed in Annex III but FESI and the Footwear Coalition did not provide any evidence that it is the same company as Foshan Nanhai Shyang Yuu/Hu Footwear. Therefore this claim is rejected. For the sake of completeness, it must also be noted that

([1]) Wolverine Europe BV, Wolverine Europe Limited and Damco Netherlands BV, in their reply to the General Disclosure Document, referred to the comments submitted by FESI and the Footwear Coalition.

a company with a similar name, Foshan Nanhai Shyang Yuu Footwear Ltd, was assessed in Regulation (EU) 2016/2257. Likewise, there is, however, no evidence available that the latter is the same company as Foshan Nanhai Shyang Yuu/Hu Footwear.

(76) FESI and the Footwear Coalition further claimed that Guangzhou Panyu Xintaiy Footwear Industry Commerce Co., Ltd submitted an MET/IT claim and that this claim should have been assessed by the Commission. It is clarified that the MET/IT claim of this company was indeed assessed. The company did not fulfil the criteria for MET and IT and its claim was therefore rejected. Consequently, the definitive duty should be reimposed in its regard and the company is therefore listed in Annex II to this Regulation. Therefore the claim of FESI and the Footwear Coalition in this regard is rejected.

(77) FESI and the Footwear Coalition claimed in addition, that a company named Mega Power Union Co. Ltd submitted an MET/IT claim. However the Commission has no record of this MET/IT claim and FESI and the Footwear Coalition failed to provide any evidence that this company indeed submitted such claim. Therefore the claim of FESI and the Footwear Coalition in this regard is rejected.

(78) Finally, FESI and the Footwear Coalition claimed that a group named 'the Evervan group' submitted an MET/IT claim and that the company group was therefore incorrectly listed in Annex III. However, while six companies listed in Annex III have names which contain the word 'Evervan' (Evervan, Evervan Deyang Footwear Co., Ltd, Evervan Golf, Evervan Qingyuan Footwear Co., Ltd, Evervan Qingyuan Vulcanized, Evervan Vietnam), FESI and the Footwear Coalition failed to provide any evidence that they were indeed part of a group. FESI and the Footwear Coalition also failed to provide evidence that this group as a whole indeed submitted an MET/IT claim. Therefore this claim is rejected. For the sake of completeness it must be noted that a company named 'Guangzhou Evervan Footwear Co., Ltd' submitted an MET/IT claims that was assessed and rejected in Regulation (EU) 2017/1982. There is no evidence available that would allow establishing a relationship with the other companies containing the word 'Evervan' listed in Annex III.

Procedural requirements when assessing MET and IT claim forms

(79) FESI and the Footwear Coalition claimed that the burden of proof when assessing MET/IT claims lies with the Commission, as the Chinese and Vietnamese exporting producers had discharged the burden by submitting the MET/IT claims in the original investigation. FESI and the Footwear Coalition also claimed that the same procedural rights should have been granted to the exporting producers concerned by the current implementation as those granted to the sampled exporting producers during the original investigation. FESI and the Footwear Coalition argued in particular, that only a desk analysis had been carried out rather than on-spot verification visits, and that the Chinese and Vietnamese exporting producers were not provided any opportunity to complement their MET/IT claim forms via deficiency letters.

(80) FESI and the Footwear Coalition further argued that the exporting producers concerned by this implementation were not provided with the same procedural guarantees than those applied in standard anti-dumping investigations, but stricter standards were applied. FESI and the Footwear Coalition claimed that the Commission has not taken into account the time lag between the filing of the MET/IT request in the original investigation and the assessment of these claims. In addition, exporting producers during the original investigation were only provided 15 days in order to fill in the MET/IT requests, instead of the usual 21 days.

(81) On this basis, FESI and the Footwear Coalition claimed that the fundamental legal principle of granting interested parties full opportunity to exercise their rights of defence laid down in Article 41 of the Charter of Fundamental Rights of the European Union and Article 6 of the Treaty on European Union, was not respected. On this basis, it was argued that by not giving the exporting producers the opportunity to complete incomplete information the Commission misused its powers and effectively reversed the burden of proof at the stage of the implementation.

(82) Finally, FESI and the Footwear Coalition also claimed that this approach would be discriminatory vis-à-vis the Chinese and Vietnamese exporting producers that were sampled in the original investigation, but also other exporting producers in non-market economy countries that were subject to an anti-dumping investigation and filed MET/IT claims in that investigation. Thus, the Chinese and Vietnamese companies concerned by the current implementation should not be made subject to the same information provision threshold as applied in a normal 15 months investigation and should not be subject to stricter procedural standards.

(83) FESI and the Footwear Coalition also claimed that the Commission applied de facto facts available within the meaning of Article 18(1) of the basic Regulation, while the Commission did not comply with the procedural rules set out in Article 18(4) of the basic Regulation.

(84) The Commission recalls that according to the case-law, the burden of proof lies with the producer wishing to claim MET/IT under Article 2(7)(b) of the basic Regulation. To that end, the first subparagraph of Article 2(7)(c) provides that the claim submitted by such a producer must contain sufficient evidence, as laid down in that provision, that the producer operates under market economy conditions. Accordingly, as held by the Court in the judgments in Brosmann and Aokang, there is no obligation on the institutions to prove that the producer does not satisfy the conditions laid down for the recognition of such status. On the contrary, it is for the Commission to assess whether the evidence supplied by the producer concerned is sufficient to show that the criteria laid down in the first subparagraph of Article 2(7)(c) of the basic Regulation are fulfilled in order to grant it MET/IT (see recital 49). In that regard, it is recalled that there is no obligation for the Commission contained in the basic Regulation or in the case-law to give the possibility of the exporting producer to complement the MET/IT claim with all missing factual information. The Commission may base its assessment on the information submitted by the exporting producer.

(85) In relation to the argument that only a desk analysis was carried out, the Commission notes that a desk analysis is a procedure whereby the requests for MET/IT are analysed on the basis of the documents submitted by the exporting producer. All MET/IT applications are subject to a desk analysis by the Commission. In addition, the Commission may decide to carry out on-site verification visits. On-site verifications visits are, however, not required, nor are they carried out for every application for MET/IT. On-site inspections, where they are carried out, usually have as their purpose to confirm a certain preliminary assessment made by the institutions and/or to check the veracity of the information provided by the exporting producer concerned. In other words, if the evidence submitted by the exporting producer clearly shows that MET/IT is not warranted, the additional and optional step of on-site inspections would typically not be organised. It is for the Commission to assess whether a verification visit is appropriate ([1]). The discretion to decide on the means of verifying the information in an MET/IT form lies with that institution. So, where, as in the present case, the Commission decides, on the basis of a desk analysis, that it was in possession of sufficient evidence to rule on an MET/IT claim, a verification visit is not necessary and cannot be required.

(86) Concerning the claim that the rights of defence were not appropriately respected through the Commission's decision not to send deficiency letters, it is, first of all, recalled that rights of defence are individual rights, and that FESI and the Footwear Coalition cannot rely on a violation of an individual right of other companies. Second, the Commission contests the assertion that there is a practice by the Commission that significant exchange of information and a detailed deficiency completion process is carried out when use is made of desk analysis alone as opposed to desk analysis plus on-site verification. Indeed, FESI and the Footwear Coalition have not been able to provide evidence to the contrary.

(87) FESI and the Footwear Coalition's comments on discrimination must equally be rejected as unfounded. It is recalled that the principle of equal treatment is violated where the Union institutions treat like cases differently, thereby placing some traders at a disadvantage by comparison to others, without such differentiation being justified by the existence of substantial objective differences ([2]). Yet, that is precisely not what the Commission is doing: by requiring the non-sampled Chinese and Vietnamese exporting producers to file MET/IT claims for reassessment, it intends to bring these formerly non-sampled exporting producers on the same footing as those who were sampled in the initial investigation. In addition, as the basic Regulation does not set out a minimum timeframe in this regard, so long as the timeframe for this purpose is reasonable and provides the parties with sufficient opportunity to assemble (or reassemble) the information needed while at the same time safeguarding their rights of defence, no discrimination occurs.

(88) Insofar as it concerns the arguments regarding Article 18(1) of the basic Regulation, the Commission would like to note that, in the current case, it did not apply Article 18 of the basic Regulation. In fact, it accepted the information provided by the exporting producers concerned, did not reject this information, and based its

([1]) Case T-192/08 *Transnational Company Kazchrome and ENRC Marketing* v *Council*, ECLI:EU:T:2011:619, at paragraph 298. The judgment was upheld on appeal, see Case C-10/12 P *Transnational Company Kazchrome and ENRC Marketing* v *Council*, ECLI:EU:C:2013:865.

([2]) Case T-255/01 *Changzhou Hailong Electronics & Light Fixtures and Zhejiang Sunlight Group* v *Council*, ECLI:EU:T:2003:282, at paragraph 60.

assessment on it. It follows that there was no need to follow the procedure under Article 18(4) of the basic Regulation. The procedure under Article 18(4) of the basic Regulation is followed in cases where the Commission intends to reject certain information provided by the interested party and to use facts available instead.

(89) Another importer, namely Sino Pro Trading Limited, claimed that the Commission could not have had sufficient time to investigate the MET and IT claims of 600 companies in a period of only several months, alleging that the investigation carried out by the Commission could therefore not have prompted solid results. This party further alleged that the outcome of this investigation, i.e. that all MET/IT claims that were assessed were also rejected would indicate that the Commission's investigation was biased. On the other hand, this party also argued that insufficient MET/IT claims were investigated, namely only 70 out of the original 600. In addition, the same importer argued that given that the companies' assessments in recitals 49 to 72 were on an anonymous basis, the interested parties were prevented to link the findings made to a specific company. Finally, this importer alleged that its supplier although listed in Annex II to this Regulation had not been investigated, but that only a questionnaire would have been sent to this supplier with an insufficient delay to respond.

(90) Regarding the above claims, the Commission first clarified that it was provided with names of 600 companies by the German or Dutch customs authorities or provided by the three importers mentioned in recital 29 as suppliers of footwear in China and Vietnam. As explained in recital 33, for most of these companies, the Commission had no record that they had submitted any MET or IT claim during the original investigation. For a substantial number of the remaining companies, the Commission had already assessed their MET and IT claim in previous implementation exercises. This procedure is explained in detail in recitals 34 to 36 and the relevant companies as well as the relevant legal acts are listed in Annexes IV to VI to this Regulation. The argument that the Commission allegedly investigated 600 companies in the present exercise is incorrect and must, accordingly, be rejected.

(91) Furthermore, the Commission clarified, that, as mentioned in recital 17, the Commission resumed the present anti-dumping proceeding at the very point at which the illegality occurred and therefore examined whether market economy conditions prevailed for the exporting producers concerned for the period from 1 April 2004 to 31 March 2005, i.e. during the investigation period of the investigation which led to the imposition of the definitive anti-dumping duties in 2006. Therefore, the Commission did also not collect new information, but based its assessment on the MET/IT claim submitted by the relevant exporting producer during this investigation. The conclusions of these assessments were disclosed to the relevant exporting producers which were given a time period to comment. As set out in recital 70, none of the exporters concerned, including the supplier of Sino Pro Trading Ltd provided any comment to this disclosure.

(92) Finally, it is highlighted that the information provided by the exporting producers in their MET/IT claims is considered confidential within the meaning of Article 19 of the basic Regulation. Therefore, in order to protect confidentiality, company names have been replaced by numbers.

(93) All above claims had therefore to be rejected.

Legal basis of reopening of the investigation

(94) FESI and the Footwear Coalition argued that the Commission would be in breach of Article 266 TFEU, as this article does not provide it with the legal basis to reopen the investigation with respect to an expired measure. FESI and the Footwear Coalition also reiterated that Article 266 TFEU does not allow for the imposition of anti-dumping duties retroactively, referring to the ruling of the Court of Justice in case C-458/98P *Industrie des poudres sphériques* v *Council* ([1]).

(95) In this regard, FESI and the Footwear Coalition argued that the anti-dumping proceeding concerning imports of footwear from China and Vietnam had been concluded on 31 March 2011 alongside the expiry of the measures. To this end, the Commission had issued a notice in the *Official Journal of the European Union* regarding the expiry of the duties on 16 March 2011 ([2]) ('notice of expiry'), the Union industry had not claimed any continuation of dumping, nor would the judgment of the Court of Justice have invalidated the notice of expiry.

(96) In addition, the same parties argued that there would also not be any powers in the basic Regulation which would allow the Commission to reopen the anti-dumping investigation.

([1]) C-458/98 P *Industrie des Poudres Sphériques* v *Council*, ECLI:EU:C:2000:531, paragraphs 80 to 85.
([2]) Notice of the expiry of certain anti-dumping measures (OJ C 82, 16.3.2011, p. 4).

(97) In this context, FESI and the Footwear Coalition argued in addition that the resumption of the investigation and the assessment of the MET/IT claims filed by the Chinese and Vietnamese exporting producers concerned in the original investigation is in violation of the universal principle of prescription or limitation. This principle is laid down in the WTO Agreement and the basic Regulation that set a 5 year time limit for the duration of measures and in Articles 236(1) and 221(3) of the Community Customs Code that set a 3-years period for importers to claim the repayment of anti-dumping duties on the one hand and for national customs authorities to collect import duties and anti-dumping duties on the other hand ([1]). Article 266 of the TFEU does not allow from the deviation of this principle.

(98) Finally, it was claimed that the Commission has not provided any reasoning or prior jurisprudence to support of the use of Article 266 TFEU as a legal basis for the reopening of the procedure.

(99) Concerning the lack of any legal basis to reopen the investigation, the Commission recalls the case-law quoted above at recital 15, pursuant to which it may resume the investigation at the very point at which the illegality occurred. In any case, as Advocate General recently recalled, Article 266 TFEU both empowers the Commission to take action to restore legality in a manner consistent with the findings of a judgment declaring the measure in question invalid as well as obliges it to bring its conduct in line with the content of that judgment ([2]). The case in *Commission* v *McBride and Others* ([3]), on which FESI and the Footwear Coalition rely, does not apply in this context as in that case the rules conferring competence to adopt an act (in replacement of the one annulled) were no longer contained in EU law, whereas, in the present case, the legal basis has not disappeared and the only change has been that competence has been conferred on the Commission ([4]).

(100) Insofar as it concerns legitimate expectations, it should be recalled that the legality of an anti-dumping Regulation has to be assessed in the light of the objective norms of Union law, and not of a decisional practice, even where such a practice exists (which is not the case here). Hence, the Commission's past practice, *quod non*, cannot create legitimate expectations: pursuant to settled case-law of the Court, legitimate expectations can only arise where the institutions have given specific assurances which would allow an interested party to lawfully deduce that the Union institutions would act in a certain way ([5]). Neither FESI nor the Footwear Coalition have attempted to demonstrate that such assurances were given in the present case. That is all the more the case because the previous practice referred to does not correspond to the factual and legal situation of the present case, and whose differences can be explained by factual and legal differences with the present case.

(101) Those differences are as follows: the illegality identified by the Court does not concern the findings on dumping, injury, and Union interest, and therefore the principle of the imposition of the duty, but only the precise duty rate. The previous annulments relied on by the interested parties, on the contrary, concerned the findings on dumping, injury and Union interest. The institutions are therefore permitted to recalculate the precise duty rate for the exporting producers concerned.

(102) In particular, in the present case, there was no need to seek additional information from interested parties. Rather, the Commission had to assess information that had been filed, but not assessed before the adoption of Regulation (EC) No 1472/2006. In any event, as noted in recital 99, previous practice in other cases does not constitute precise and unconditional assurance for the present case.

(103) Finally, all parties against which the proceeding is directed, i.e. the exporting producers concerned, as well as the parties in the Court cases and the association representing one of those parties, have been informed by the disclosure of the relevant facts on the basis of which the Commission intends to adopt the present MET/IT assessment. Hence, their rights of defence are safeguarded. In that regard, it is to be noted in particular that unrelated importers do not enjoy, in an anti-dumping proceeding, rights of defence, as those proceedings are not directed against them.

([1]) That time limit is now found in Articles 103(1) and 121(1)(a) of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

([2]) Opinion of Advocate General Campos Sánchez-Bordona of 20 July 2017 in Case C-256/16 *Deichmann*, ECLI:EU:C:2017:580, at paragraph 73.

([3]) C-361/14 P *Commission* v *McBride and Others*, ECLI:EU:C:2016:434.

([4]) *Ibid*, point 76.

([5]) Case C-373/07 P *Mebrom* v *Commission*, [2009] ECR I-00054, at paragraphs 91-94.

(104) As regards the claim that the measures in question expired on 31 March 2011, the Commission fails to see why the expiry of the measure would be of any relevance for the possibility for the Commission to adopt a new act to replace the annulled act following a judgment annulling the initial act. According to the case-law referred to in recital 15, the administrative procedure should be resumed at the point in time where the illegality occurred. The Commission reopened the investigation precisely at that point in order to assess whether MET/IT claims that were unassessed should have been granted, and, alongside, possibly a lower duty rate has been due (which, in turn would have allowed these concerned companies to request a repayment of those overpaid duties via their competent customs authority alongside interest ([1])). A notice of expiry, while officially terminating the proceeding, cannot have the effect of denying those companies the right to have their MET/IT claims reviewed — a right that, after all, had been due during the investigation, as recognised by the Court in *C&J Clark* ([2]). The investigation was, accordingly, reopened on 17 March 2016, and will be closed by way of this Regulation in line with Article 9(4) of the basic Regulation.

Article 236 of the Community Customs Code

(105) FESI and the Footwear Coalition also submitted that the procedure adopted to reopen the investigation and retroactively impose the duty amounts to an abuse of powers by the Commission and violates the TFEU. FESI and the Footwear Coalition argue in this regard that the Commission does not have the authority to interfere with Article 236(1) of the Community Customs Code by preventing the repayment of the anti-dumping duties. They argued that it was up to the national customs authorities to draw the consequences of an invalidation of duties and that they would also be obliged to reimburse anti-dumping duties that had been declared invalid by the Court.

(106) In this regard, FESI and the Footwear Coalition claimed that Article 14(3) of the basic Regulation does not allow the Commission to derogate from Article 236 of the Community Customs Code, as both legislations are of an equal legal order and the basic Regulation cannot be seen as a *lex specialis* of the Community Customs Code.

(107) Furthermore, the same parties continued Article 14(3) of the basic Regulation does not refer to Article 236 of the Community Customs Code and only states that special provisions may be adopted by the Commission, but no derogations to the Community Customs Code.

(108) In response thereto, it is important to underline that Article 14(1) of the basic Regulation does not automatically render applicable the rules governing Union customs legislation to the imposition of the individual anti-dumping duties ([3]). Rather, Article 14(3) of the basic Regulation gives the Union's institutions the right to transpose and make applicable, where necessary and useful, the rules governing the Union's customs legislation ([4]).

(109) This transposition does not require a full application of all the provisions of the Union's customs legislation. Article 14(3) of the basic Regulation explicitly envisages special provisions with regard to the common definition of the concept of origin, a good example of where deviation from the provisions of the Union's customs legislation occurs. It is on that basis that the Commission made use of the powers arising from Article 14(3) of the basic Regulation and required that national customs authorities refrain temporarily from any reimbursement. This does not challenge the exclusive competence that national customs authorities have in relation to disputes concerning customs debt: the decision-making authority remains with the customs authorities of the Member States. The Member States customs authorities still decide, on the basis of the conclusions reached by the Commission vis-à-vis the MET and IT claims, whether reimbursement should be granted or not.

(110) Thus, while it is true that nothing in the Union's customs legislation allows for an obstacle to the reimbursement of erroneously paid customs duties to be erected, no such sweeping statement can be made in relation to the reimbursement of anti-dumping duties. Accordingly, and with the overarching necessity to protect the Union's

([1]) *See*, in this regard, Case C-365/15 *Wortmann*, ECLI:EU:C:2017:19, paragraphs 34 and 37.
([2]) Joined Cases C-659/13 and C-34/14 *C & J Clark International*, ECLI:EU:C:2016:74, paragraph 110-112.
([3]) See Commission Staff Working Document, Compliance with the judgments of the Court of Justice of 2 February 2012 in Case C-249/10 P Brosmann and of 15 November 2012 in Case C-247/10 P Zhejiang Aokang, accompanying the Proposal for a Council Implementing Regulation reimposing a definitive anti-dumping duty and collecting definitely the provisional duty imposed on imports of certain footwear with uppers of leather originating in the People's Republic of China and produced by Brosmann Footwear (HK) Ltd, Seasonable Footwear (Zhongshan) Ltd, Lung Pao Footwear (Guangzhou) Ltd, Risen Footwear (HK) Co. Ltd and Zhejiang Aokang Shoes Co. Ltd,/* SWD/2014/046 final, at recitals 45-48.
([4]) Case C-382/09 *Stils Met*, ECLI:EU:C:2010:596, paragraphs 42-43. The TARIC, for instance, which is also used as a vehicle to ensure compliance with trade defence measures, finds its origins in Article 2 of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

own resources from unjustified requests for repayment and the related difficulty this would have caused pursuing unjustified repayments thereafter, the Commission had to deviate temporarily from the Union's customs legislation by making use of its powers under Article 14(3) of the basic Regulation.

Lack of statement of reasons on legal basis

(111) FESI and the Footwear Coalition also argued that in violation of Article 296 TFEU, the Commission failed to provide adequate statement of reasons and indication of the legal basis on which duties were reimposed retroactively and therefore the reimbursement of duties denied to the importers concerned by the current implementation. Accordingly, FESI and the Footwear coalition claimed that the Commission had breached the right to effective judicial protection of interested parties.

(112) SIEMES, one of the importers providing comments to the disclosure, also claimed that the Commission Implementing Regulation lacks appropriate reasoning, which is in violation of Article 296 TFEU, however, without further explaining this claim in more detail. In support of its claim this party referred to the judgment in T-310/12 *Yuanping Changyuan Chemicals* v *Council* [1].

(113) The Commission considers that the extensive legal reasoning provided in the general disclosure document and in this Regulation, including the reference to the legal bases for the present Regulation, duly motivates the latter.

Legitimate expectations

(114) FESI and the Footwear Coalition claimed further that the retroactive correction of expired measures violates the principle of protection of legitimate expectations. FESI argued that first, parties including importers, would have received assurance that the measures expired on 31 March 2011 and that given the time elapsed since the original investigation, parties were entitled to have justified expectations that the original investigation will not be resumed or reopened. Likewise, the Chinese and Vietnamese exporting producers were entitled to have justified legitimate expatiations that their MET/IT claims provided in the original investigation would not be reviewed anymore by the Commission, based on the mere fact that these claims were no assessed within the three-month period applicable during the original investigation.

(115) Regarding legitimate expectations of interested parties that anti-dumping measures expired and that the investigation will not be reopened anymore, reference is made to recital 104, where these claims had been addressed in detail.

(116) Regarding the legitimate expectations of Chinese and Vietnamese exporting producers not to have their MET/IT claims reviewed, reference is made to recital 99, where this has equally been addressed in light of the case-law of the Court on this matter.

Principle of non-discrimination

(117) FESI and the Footwear Coalition submitted that the imposition of anti-dumping measures with retroactive effects constitutes discrimination of (i) the importers concerned by the current implementation vis-à-vis importers concerned by the implementation of the Brosmann and Aokang judgments referred to in recital 6 that were reimbursed duties paid on imports of footwear from the five exporting producers concerned by these judgments, as well as (ii) a discrimination of the exporting producers concerned by the current implementation vis-à-vis the five exporting producers concerned by the Brosmann and Aokang judgments which were not made subject of any duty following Implementing Decision 2014/149/EU.

(118) Regarding the claim on discrimination, the Commission recalls first of all the requirements for discrimination, as set out in recital 87.

(119) Then, it is noted that the difference between importers concerned by the current implementation and those concerned by the implementation of the Brosmann and Aokang judgments is that the latter decided to challenge Regulation (EC) No 1472/2006 in the General Court, whereas the former did not.

(120) A decision adopted by a Union institution, which has not been challenged by its addressee within the time-limit laid down by the sixth paragraph of Article 263 TFEU, becomes definitive as against him. That rule is based in particular on the consideration that the periods within which legal proceedings must be brought are intended to ensure legal certainty by preventing Union measures which produce legal effects from being called into question indefinitely [2].

[1] ECLI:EU:T:2015:295.
[2] Case C-239/99 *Nachi Europe*, ECLI:EU:C:2001:101, at paragraph 29.

(121) This procedural principle of Union law necessarily creates two groups: those which challenged a Union measure and who may have gained a favourable position as a result (like Brosmann and the other four exporting producers), and those who did not. Yet, that does not mean that the Commission has treated the two parties unequally in violation of the principle of equal treatment. An acknowledgement that a party falls into the latter category because of a conscious decision not to challenge a Union measure does not discriminate against that group.

(122) So, all interested parties did enjoy judicial protection in the Union courts at all times.

(123) Insofar as it concerns the alleged discrimination of the exporting producers concerned by the current implementation which were not made subject of any duty following Implementing Decision 2014/149/EU, it should be noted that the decision of the Council not to reimpose duties was clearly taken with regard to the particular circumstances of the specific situation as it stood at the time the Commission made its proposal for the reimposition of those duties and in particular on the grounds that the anti-dumping duties concerned had already been reimbursed, and to the extent that the original communication of the debt to the debtor in question had been withdrawn following the judgments in Brosmann and Aokang. According to the Council, this reimbursement had created legitimate expectations on the part of the importers concerned. Since no comparable reimbursement took place for other importers, these are not in a comparable situation to those importers concerned by the Council decision.

(124) In any event, the fact that the Council chose to act in a certain way, given the particular circumstances of the case before it, cannot bind the Commission to implement another judgment in the exact same way.

Commission's competence to impose definitive anti-dumping measures

(125) In addition, FESI and the Footwear Coalition claimed that the Commission does not have the competence to adopt the Regulation imposing an anti-dumping duty retroactively in the current implementation exercise, and that this competence would in any event lie with the Council. This claim was based on the argument that if the investigation is resumed at the very point at which the illegality occurred, the same rules should also be applicable as the ones at the time of the original investigation, where definitive measures were adopted by the Council. These parties argued that in accordance with Article 3 of Regulation (EU) 37/2014 of the European Parliament and of the Council of 15 January 2014 amending certain regulations relating to the common commercial policy as regards the procedures for the adoption of certain measures (also called 'Omnibus I Regulation') [1] the new decision-making procedure in the field of the common commercial policy does not apply to the present context given that before the entry into force of the Omnibus I Regulation the Commission (i) had already adopted an act (the provisional Regulation), (ii) the consultations that were required under Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community were initiated and concluded, and (iii) the Commission had already adopted a proposal for a Council Regulation adopting definitive measures. On this basis, these parties concluded that the decision making procedures prior to the entry in force of the Omnibus I Regulation should apply.

(126) That claim, however, focuses on the date of initiation of the investigation (which is indeed relevant in relation to the other substantive amendments that were made to the basic Regulation) but fails to note that Regulation (EU) No 37/2014 uses a different criterion (that is, the initiation of the procedure for adoption of measures). The position of FESI and the Footwear Coalition is therefore based on an incorrect interpretation of the transitional rule in Regulation (EU) No 37/2014.

(127) Indeed, given the reference in Article 3 of Regulation (EU) No 37/2014 to 'procedures initiated for the adoption of measures', which sets out the transitional rules for the changes to the decision-making procedures for the adoption of anti-dumping measures, and given the meaning of 'procedure' in the basic Regulation, for an investigation that was initiated prior to the entry into force of Regulation (EU) No 37/2014, but where the Commission had not launched the consultation of the relevant committee with a view to adopting measures prior to that entry into force, the new rules apply to the procedure for adopting the said anti-dumping measures. The same holds true for proceedings where measures had been imposed on the basis of the old rules and come up for review, or for measures where provisional duties had been imposed on the basis of the old rules, but the procedure for adopting definitive measures had not been launched yet when Regulation (EU) No 37/2014 entered into force. In other words, Regulation (EU) No 37/2014 applies to a specific 'procedure for adoption' and not to the entire period of a given investigation or even proceeding.

[1] OJ L 18, 21.1.2014, p. 1.

(128) The contested regulation was adopted in 2006. The relevant legislation applicable to this proceeding is Regulation (EU) 2016/1036. Therefore, this claim is rejected.

(129) With regard to Clarks et al, it is first claimed that the Commission had no legal basis to investigate the MET/IT claims submitted by exporting producers in the original investigation. Clarks et al argued that the proceeding, which was closed by the expiry of the measures on 31 March 2011, was not invalidated by the judgment in Joined Cases C-659/13 and C-34/14, and that therefore, it cannot be reopened.

(130) In reply to this comment, the Commission refers to the explanation provided in recitals 99 to 104.

(131) Second, Clarks et al claimed that the current proceeding is in breach of the principles of non-retroactivity and legal certainty enshrined in Article 10 of the basic Regulation. In addition, SIEMES, another importer of footwear, similarly, claimed that there would be no legal basis for imposition of anti-dumping duties on a retroactive basis and referred to case law, i.e. Case C-458/98 P, *Industrie des poudres sphériques* v *Council* [1], and to previous practice of the Commission in this regard.

(132) As to the claim concerning retroactivity based on Article 10 of the basic Regulation and Article 10 of the WTO Anti-Dumping Agreement ('WTO ADA'), Article 10(1) of the basic Regulation, which follows the text of Article 10.1 of the WTO ADA, stipulates that provisional and definitive anti-dumping duties shall only be applied to products which enter free circulation after the time when the measures taken pursuant to Article 7(1) or 9(4) of the basic Regulation, as the case may be, enter into force. In the present case, the anti-dumping duties in question are only applied to products which entered into free circulation after the provisional and the contested (definitive) Regulation taken pursuant to 7(1) and 9(4) of the basic Regulation respectively had entered into force. Retroactivity in the sense of Article 10(1) of the basic Regulation, however, refers only to a situation where the goods were introduced into free circulation before measures were introduced, as can be seen from the very text of that provision as well as from the exception for which Article 10(4) of the basic Regulation provides.

(133) The Commission also observes that there is neither a violation of the principle of retroactivity, nor a violation of legal certainty and legitimate expectations involved in the present case.

(134) As to retroactivity, the case-law of the Court distinguishes, when assessing whether a measure is retroactive, between the application of a new rule to a situation that has become definitive (also referred to as an existing or definitively established legal situation), and a situation that started before the entry into force of the new rule, but which is not yet definitive (also referred to as a temporary situation).

(135) In the present case, the situation of the imports of the products concerned that occurred during the period of application of Regulation (EC) No 1472/2006 has not yet become definitive, because, as a result of the annulment of the contested Regulation, the anti-dumping duty applicable to them has not yet been definitively established. At the same time, importers of footwear were warned that such a duty may be imposed by the publication of the Notice of Initiation and the provisional Regulation. It is standing case-law of the Union courts that operators cannot acquire legitimate expectations until the institutions have adopted an act closing the administrative procedure, which became definitive.

(136) This Regulation constitutes immediate application to the future effects of a situation that is ongoing: The duties on footwear have been levied by national customs authorities. As a result of the requests for reimbursement, which have not been decided in a definitive way, they constitute an ongoing situation. This Regulation sets out the duty rate applicable to those imports, and hence regulates the future effects of an ongoing situation.

(137) In any event, even if there were retroactivity in the sense of Union law, *quod non*, such retroactivity would be justified, for the following reason:

(138) The substantive rules of Union law may apply to situations existing before their entry into force in so far as it clearly follows from their terms, objectives or general scheme that such effect must be given to them. In particular, in case C-337/88 *Società agricola fattoria alimantare (SAFA)*, it was held that: '[A]lthough in general the

[1] ECLI:EU:C:2000:531.

principle of legal certainty precludes a Community measure from taking effect from a point in time before its publication, it may exceptionally be otherwise where the purpose to be achieved so demands and where the legitimate expectations of those concerned are duly respected' ([1]).

(139) In the present case, the purpose is to comply with the obligation of the Commission pursuant to Article 266 TFEU. Since, in the judgments referred to in recital 12, the Court only found an illegality with regard to the determination of the applicable duty rate, and not with regard to the imposition of the measures themselves (that is, with regard to the finding of dumping, injury, causation and Union interest), the exporting producers concerned could not have legitimately expected that no definitive anti-dumping measures would be imposed. Consequently, that imposition, even if it was retroactive, *quod non*, cannot be construed as breaching legitimate expectations.

(140) Third, Clarks et al claimed that it would be discriminatory and in breach of Article 266 TFEU to reimpose an anti-dumping duty on the seventy exporting producers concerned, given that no anti-dumping duty was reimposed following the Brosmann and Aokang judgments.

(141) This claim is unfounded. Importers that have imported from Brosman and the other four exporting producers concerned by the judgments in cases C-247/10 P and C-249/10 P, are in a different factual and legal situation, because their exporting producers decided to challenge the contested Regulation and because they were reimbursed their duties, so that they are protected by Article 221(3) of the Community Customs Code. No such challenge and no such reimbursement have taken place for others. See, in this regard, also recitals 118 to 122.

(142) Fourth, Clarks et al alleged that there were several procedural irregularities resulting from this investigation. In the first place, they argued that the exporting producers concerned may no longer be in a position to provide meaningful comments or adduce additional evidence to support their MET/IT claims that they made several years ago. For example, the companies may no longer exist or relevant documents may no longer be available.

(143) In addition, Clarks et al argued that unlike during the original investigation, the Commission's measures would de facto and de jure affect only importers, whereas they have no means of providing any meaningful input and cannot require their suppliers to cooperate with the Commission.

(144) The Commission observes that nothing in the basic Regulation requires the Commission to give exporting companies claiming MET/IT the possibility to complete lacking factual information. In fact, and as set out in recital 88 the burden of proof lies with the producer wishing to claim MET/IT under Article 2(7)(b) of the basic Regulation. The right to be heard concerns the assessment of those facts, but does not comprise the right to remedy deficient information. Otherwise, the exporting producer could prolong indefinitely the assessment, by providing information piece by piece.

(145) In that regard, it is recalled that there is no obligation, for the Commission, to request the exporting producer to complement the MET/IT claim. As mentioned in recital 84, the Commission may base their assessment on the information submitted by the exporting producer. In any event, the exporting producers concerned have not contested the assessment of their MET/IT claims by the Commission, and they have not identified which documents or which people they have no longer been able to rely upon. The allegation is therefore so abstract that the institutions cannot take into account those difficulties when carrying out the assessment of the MET/IT claims. As that argument is based on speculation and not supported by precise indications as to which documents and which people are no longer available and as to what the relevance of those documents and people for the assessment of the MET/IT claim is, that argument is rejected.

(146) Regarding the claim that an importer would have no means to provide any meaningful input, the Commission observes the following: first, importers do not enjoy rights of defence, as the anti-dumping measure is not directed against them, but against the exporting producers. Second, importers had the opportunity to comment on that point already during the administrative procedure prior to the adoption of the contested Regulation. Third, if importers thought that there was an irregularity in that regard, they had to take the necessary contractual arrangements with their suppliers to ensure to dispose of the necessary documentation. Therefore, the claim has to be rejected.

([1]) ECLI:EU:C:1990:1, paragraph 13.

(147) Fifth, Clarks et al argued that the Commission failed to examine whether the imposition of the anti-dumping duties would be in the Union interest and argued that the measures would be against the Union interest because (i) the measures already had their intended effect when first imposed; (ii) the measures would not cause additional benefit for the Union industry; (iii) the measures would not affect the exporting producers and (iv) the measures would impose an important cost on the importers in the Union.

(148) The present case only concerns the MET/IT requests, because this is the only point on which a legal error has been identified by the Union Courts. For Union interest, the assessment in Regulation (EC) No 1472/2006 remains fully valid. Furthermore, the present measure is justified in order to protect the financial interest of the Union.

(149) Sixth, Clarks et al claimed that the anti-dumping duty, if reimposed, could no longer be collected because of the statute of limitations of Article 221(3) of the Community Customs Code (now Article 103(1) of the Union Customs Code) had expired. According to Clarks et all, this situation would constitute an abuse of power by the Commission.

(150) The Commission recalls that according to Article 221(3) of the Community Customs Code/103(1) of the Union Customs Code, the statute of limitations does not apply where an appeal pursuant to Article 243 of the Community Customs Code/Article 44(2) of the Union Customs Code is lodged, as in all the present cases, which concern appeals on the basis of Article 236 of the Community Customs Code/Article 119 of the Union Customs Code. An appeal within the meaning of Article 103(3) of the Union Customs Code, pursuant to the clarification in Article 44(2) of the same regulation, extends from the initial challenge to the decision by the national customs authorities imposing the duties up to the final judgment rendered by the national court, including, where necessary, a reference for a preliminary ruling. The three year period is consequently stayed from the date the challenge is filed.

(151) Lastly, Clarks et al claimed that, following the expiry of paragraph 15(a)(ii) of China's WTO Protocol of Accession on 11 December 2016, the Commission can no longer rely on the methodology used to determine normal value for Chinese exporters in the original investigation (i.e. the analogue country methodology under Article 2(7)(a) of the basic Regulation).

(152) The contested regulation was adopted in 2006. The relevant legislation applicable to this proceeding is the Regulation (EU) 2016/1036 of the European Parliament and the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union. Therefore, this claim is rejected.

(153) In addition, SIEMES argued that the length of the procedure in relation to its ongoing reimbursement request of anti-dumping duties before the German customs authorities violates the right of good administration under Article 41 of the Charter of Fundamental Rights of the European Union. First, the Commission notes that decisions over repayment of the anti-dumping duties fall within the competence of the national customs authorities of the Member States. Second, the Commission understood from the information provided to it that SIEMES' reimbursement request of 19 March 2012 was rejected because the judgment pursuant to which it lodged its reimbursement request was limited to Brosmann and Aokang. The judgment had no effect vis-à-vis other exporting producers in China and Vietnam. Only on 4 February 2016 did the Court of Justice declare, in Joined Cases C-659/13 *C & J Clark International Limited* and C-34/14 *Puma SE*, the contested Regulation invalid in so far as it concerned all exporting producers of the product concerned (see recital 12). It is only at this point that SIEMES was concerned by a judgment of the Court, as duly notified to it by the German customs authorities in their letter of 7 September 2016. The Commission implemented the judgment vis-à-vis a number of exporting producers as described in recitals 18 to 38, as well as vis-à-vis the importers requesting reimbursement claims before the German customs authorities. In particular, as regards imports subject to reimbursement claims notified to the Commission by the German customs authorities in accordance with Article 1 of Implementing Regulation (EU) 2016/223 (reference is made to recital 30), the Commission fully respected the eight month time limit for implementation set out in Article 1(2) of that Regulation. The Commission, accordingly, disagreed with the argument that this procedure violated the principle of good administration. This claim had therefore to be rejected.

D. **CONCLUSIONS**

(154) Having taken account of the comments made and the analysis thereof, the Commission concluded that the residual anti-dumping duty applicable to China and Vietnam, i.e. 16,5 % and 10 % respectively, should be reimposed for the period of application of the contested Regulation.

(155) As mentioned in recital 28, the Commission suspended the assessment of the companies listed in Annex III of Commission Implementing Regulation (EU) 2017/423 until the importer claiming reimbursement from national customs authorities has informed the Commission of the names and addresses of the exporting producer(s) from which the relevant traders purchased footwear, or where no reply is received within that period of time, the expiry of the deadline set by the Commission for providing that information.

(156) In Article 3 of Regulation (EU) 2017/423 the Commission also instructed the relevant national customs authorities not to reimburse the customs duties collected until the Commission has finalised the assessment of the relevant MET/IT claims.

(157) As a consequence, as mentioned in recital 29, Pentland Brands Ltd, Puma UK Ltd and Deichmann Shoes UK Ltd came forward and identified their suppliers. The Commission analysed the MET/IT claims of the suppliers identified in the current Regulation. It follows that the Commission finalised the assessment of the situation of the companies listed in Annex III of Regulation (EU) 2017/423. As a result, for companies listed in Annex III of Commission Implementing Regulation (EU) 2017/423, the Commission has no record that these companies submitted any MET/IT claim form in the original investigation. The relevant reimbursement claim of the importers should therefore not be granted because the contested Regulation has not been annulled as far as they are concerned. For ease of reference, the Commission has reproduced Annex III of Regulation (EU) 2017/423 as Annex VI to this Regulation.

E. **DISCLOSURE**

(158) The exporting producers concerned, the importers that were concerned by notification of the customs authorities of Germany and the Netherlands, the importers that came forward providing the names and addresses of their respective suppliers in China and/or Vietnam as well as all other parties that came forward were informed of the essential facts and considerations on the basis of which it was intended to recommend the reimposition of the definitive anti-dumping duty on exports of the 70 exporting producers concerned. They were granted a period within which to make representations subsequent to disclosure.

(159) This Regulation is in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of footwear with uppers of leather or composition leather, excluding sports footwear, footwear involving special technology, slippers and other indoor footwear and footwear with a protective toecap, originating in the People's Republic of China and Vietnam and produced by the exporting producers listed in Annex II to this Regulation and falling within CN codes: 6403 20 00, ex 6403 30 00 ([1]), ex 6403 51 11, ex 6403 51 15, ex 6403 51 19, ex 6403 51 91, ex 6403 51 95, ex 6403 51 99, ex 6403 59 11, ex 6403 59 31, ex 6403 59 35, ex 6403 59 39, ex 6403 59 91, ex 6403 59 95, ex 6403 59 99, ex 6403 91 11, ex 6403 91 13, ex 6403 91 16, ex 6403 91 18, ex 6403 91 91, ex 6403 91 93, ex 6403 91 96, ex 6403 91 98, ex 6403 99 11, ex 6403 99 31, ex 6403 99 33, ex 6403 99 36, ex 6403 99 38, ex 6403 99 91, ex 6403 99 93, ex 6403 99 96, ex 6403 99 98 and ex 6405 10 00 ([2]) which took place during the period of application of Council Regulation (EC) No 1472/2006 and Council Implementing Regulation (EU) No 1294/2009. The TARIC codes are listed in the Annex I to this Regulation.

2. For the purpose of this Regulation, the following definitions shall apply:

— 'sports footwear' shall mean footwear within the meaning of subheading note 1 to Chapter 64 of Annex I of Commission Regulation (EC) No 1719/2005 ([3]);

([1]) By virtue of Commission Regulation (EC) No 1549/2006 of 17 October 2006 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 301, 31.10.2006, p. 1) this CN code is replaced on 1 January 2007 by CN codes ex 6403 51 05, ex 6403 59 05, ex 6403 91 05 and ex 6403 99 05.

([2]) As defined in Commission Regulation (EC) No 1719/2005 of 27 October 2005 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 286, 28.10.2005, p. 1). The product coverage is determined in combining the product description in Article 1(1) and the product description of the corresponding CN codes taken together.

([3]) OJ L 286, 28.10.2005, p. 1.

— 'footwear involving special technology' shall mean footwear having a CIF price per pair of not less than EUR 7,5, for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralise impact, or materials such as low-density polymers and falling within CN codes ex 6403 91 11, ex 6403 91 13, ex 6403 91 16, ex 6403 91 18, ex 6403 91 91, ex 6403 91 93, ex 6403 91 96, ex 6403 91 98, ex 6403 99 91, ex 6403 99 93, ex 6403 99 96, ex 6403 99 98;

— 'footwear with a protective toecap' shall mean footwear incorporating a protective toecap with an impact resistance of at least 100 joules [1] and falling within CN codes: ex 6403 30 00 [2], ex 6403 51 11, ex 6403 51 15, ex 6403 51 19, ex 6403 51 91, ex 6403 51 95, ex 6403 51 99, ex 6403 59 11, ex 6403 59 31, ex 6403 59 35, ex 6403 59 39, ex 6403 59 91, ex 6403 59 95, ex 6403 59 99, ex 6403 91 11, ex 6403 91 13, ex 6403 91 16, ex 6403 91 18, ex 6403 91 91, ex 6403 91 93, ex 6403 91 96, ex 6403 91 98, ex 6403 99 11, ex 6403 99 31, ex 6403 99 33, ex 6403 99 36, ex 6403 99 38, ex 6403 99 91, ex 6403 99 93, ex 6403 99 96, ex 6403 99 98 and ex 6405 10 00;

— 'slippers and other indoor footwear' shall mean such footwear falling within CN code ex 6405 10 00.

3. The rate of the definitive anti-dumping duty applicable, before duty, to the net free-at-Union-frontier price of the products described in paragraph 1 and manufactured by the exporting producers listed in Annex II to this Regulation shall be 16,5 % for the Chinese exporting producers concerned and 10 % for the Vietnamese exporting producer concerned.

Article 2

The amounts secured by way of the provisional anti-dumping duty pursuant to Commission Regulation (EC) No 553/2006 shall be definitively collected. The amounts secured in excess of the definitive rate of anti-dumping duties shall be released.

Article 3

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 4 December 2017.

For the Commission
The President
Jean-Claude JUNCKER

[1] The impact resistance shall be measured according to European Norms EN345 or EN346.
[2] By virtue of Commission Regulation (EC) No 1549/2006 of 17 October 2006 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 301, 31.10.2006, p. 1) this CN code is replaced on 1 January 2007 by CN codes ex 6403 51 05, ex 6403 59 05, ex 6403 91 05 and ex 6403 99 05.

ANNEX I

TARIC codes for footwear with uppers of leather or composition leather as defined in Article 1

a) From 7 October 2006:

6403 30 00 39, 6403 30 00 89, 6403 51 11 90, 6403 51 15 90, 6403 51 19 90, 6403 51 91 90, 6403 51 95 90, 6403 51 99 90, 6403 59 11 90, 6403 59 31 90, 6403 59 35 90, 6403 59 39 90, 6403 59 91 90, 6403 59 95 90, 6403 59 99 90, 6403 91 11 99, 6403 91 13 99, 6403 91 16 99, 6403 91 18 99, 6403 91 91 99, 6403 91 93 99, 6403 91 96 99, 6403 91 98 99, 6403 99 11 90, 6403 99 31 90, 6403 99 33 90, 6403 99 36 90, 6403 99 38 90, 6403 99 91 99, 6403 99 93 29, 6403 99 93 99, 6403 99 96 29, 6403 99 96 99, 6403 99 98 29, 6403 99 98 99 and 6405 10 00 80

b) From 1 January 2007:

6403 51 05 19, 6403 51 05 99, 6403 51 11 90, 6403 51 15 90, 6403 51 19 90, 6403 51 91 90, 6403 51 95 90, 6403 51 99 90, 6403 59 05 19, 6403 59 05 99, 6403 59 11 90, 6403 59 31 90, 6403 59 35 90, 6403 59 39 90, 6403 59 91 90, 6403 59 95 90, 6403 59 99 90, 6403 91 05 19, 6403 91 05 99, 6403 91 11 99, 6403 91 13 99, 6403 91 16 99, 6403 91 18 99, 6403 91 91 99, 6403 91 93 99, 6403 91 96 99, 6403 91 98 99, 6403 99 05 19, 6403 99 05 99, 6403 99 11 90, 6403 99 31 90, 6403 99 33 90, 6403 99 36 90, 6403 99 38 90, 6403 99 91 99, 6403 99 93 29, 6403 99 93 99, 6403 99 96 29, 6403 99 96 99, 6403 99 98 29, 6403 99 98 99 and 6405 10 00 80

c) From 7 September 2007:

6403 51 05 15, 6403 51 05 18, 6403 51 05 95, 6403 51 05 98, 6403 51 11 91, 6403 51 11 99, 6403 51 15 91, 6403 51 15 99, 6403 51 19 91, 6403 51 19 99, 6403 51 91 91, 6403 51 91 99, 6403 51 95 91, 6403 51 95 99, 6403 51 99 91, 6403 51 99 99, 6403 59 05 15, 6403 59 05 18, 6403 59 05 95, 6403 59 05 98, 6403 59 11 91, 6403 59 11 99, 6403 59 31 91, 6403 59 31 99, 6403 59 35 91, 6403 59 35 99, 6403 59 39 91, 6403 59 39 99, 6403 59 91 91, 6403 59 91 99, 6403 59 95 91, 6403 59 95 99, 6403 59 99 91, 6403 59 99 99, 6403 91 05 15, 6403 91 05 18, 6403 91 05 95, 6403 91 05 98, 6403 91 11 95, 6403 91 11 98, 6403 91 13 95, 6403 91 13 98, 6403 91 16 95, 6403 91 16 98, 6403 91 18 95, 6403 91 18 98, 6403 91 91 95, 6403 91 91 98, 6403 91 93 95, 6403 91 93 98, 6403 91 96 95, 6403 91 96 98, 6403 91 98 95, 6403 91 98 98, 6403 99 05 15, 6403 99 05 18, 6403 99 05 95, 6403 99 05 98, 6403 99 11 91, 6403 99 11 99, 6403 99 31 91, 6403 99 31 99, 6403 99 33 91, 6403 99 33 99, 6403 99 36 91, 6403 99 36 99, 6403 99 38 91, 6403 99 38 99, 6403 99 91 95, 6403 99 91 98, 6403 99 93 25, 6403 99 93 28, 6403 99 93 95, 6403 99 93 98, 6403 99 96 25, 6403 99 96 28, 6403 99 96 95, 6403 99 96 98, 6403 99 98 25, 6403 99 98 28, 6403 99 98 95, 6403 99 98 98, 6405 10 00 81 and 6405 10 00 89

ANNEX II

List of exporting producers for which imports a definitive anti-dumping duty is imposed

Name of the exporting producer	TARIC additional code
Aiminer Leather Products Co., Ltd (Chengdu — China)	A999
Best Health Ltd (Hou Jei Dong Wong — China)	A999
Best Run Worldwide Co., Ltd (Dongguan — China)	A999
Bright Ease Shoe Factory (Dongguan — China) and related companies Honour Service (Taipei – Taiwan) and Waffle Shoe Manufacturing	A999
Cambinh Shoes Company (Lai Cach — Vietnam)	A999
Dong Anh Footwear Joint Stock Company (Hanoi — Vietnam)	A999
Dong Guan Bor Jiann Footwear Co., Ltd (Dongguan — China)	A999
Dongguan Hongguo Shoes Co., Ltd (Dongguan — China)	A999
Dongguan Hopecome Footwear Co, Ltd (Dongguan — China)	A999
Dongguan Houjie Baihou Hua Jian Footwear Factory (Dongguan — China)	A999
Dongguan Qun Yao Shoe Co., Ltd (Dongguan — China) and related company Kwan Yiu Co. Ltd	A999
Dongyi Shoes Co., Ltd (Wenzhou — China)	A999
Doozer (Fujian) Shoes Co., Ltd (Jinjiang, Fujian — China)	A999
Emperor (VN) Co., Ltd (Tinh Long An — Vietnam)	A999
Everlasting Industry Co., Ltd (Huizhou — China)	A999
Freetrend Industrial Ltd (China) (Shenzhen — China)	A999
Freeview Company Ltd (Shenzhen — China)	A999
Fu Jian Ching Luh Shoes Co., Ltd (Fuzhou — China)	A999
Fu Jian Lion Score Sport Products Co., Ltd (Fuzhou — China)	A999
Fujian Footwear & Headgear Import & Export (Holdings) Co., Ltd (Fuzhou — China)	A999
Fujian Jinjiang Guohui Footwear & Garment Co., Ltd (Chendai, Jinjiang Fujian — China)	A999
Gan Zhou Hua Jian International Footwear Co., Ltd (Ganzhou — China)	A999
Golden Springs Shoe Co., Ltd (Dongguan — China)	A999
Haiduong Shoes Stock Company (Haiduong — Vietnam)	A999
Hangzhou Forever Shoes Factory (Hangzhou — China)	A999
Hua Jian Industrial Holding Co., Ltd (Kowloon — Hong Kong) and related company Hua Bao Shoes Co., Ltd	A999
Huu Nghi Danang Company (HUNEXCO) (Da Nang — Vietnam)	A999

Name of the exporting producer	TARIC additional code
Hwa Seung Vina Co., Ltd (Nhon Trach — Vietnam)	A999
Jason Rubber Works Ltd (Kowloon — Hong Kong) and related company New Star Shoes Factory	A999
Jinjiang Hengdali Footwear Co., Ltd (Jinjiang, Fujian — China)	A999
Jinjiang Xiangcheng Footwear and Plastics Co., Ltd (Jinjiang, Fujian — China)	A999
JinJiang Zhenxing shoes & plastic Co., Ltd (Jinjiang, Fujian — China)	A999
Juyi Group Co., Ltd (Wenzhou — China)	A999
K Star Footwear Co., Ltd (Zhongshan — China) and related company Sun Palace Trading Ltd	A999
Kangnai Group Wenzhou Lucky Shoes and Leather Co., Ltd (Wenzhou — China)	A999
Khai Hoan Footwear Co., Ltd (Ho Chi Minh city — Vietnam)	A999
Lian Jiang Ching Luh Shoes Co., Ltd (Fuzhou — China)	A999
Li-Kai Shoes Manufacturing Co., Ltd (Dongguan — China)	A999
New Star Shoes Factory (Dongguan — China)	A999
Ngoc Ha Shoe Company (Hanoi — Vietnam)	A999
Nhi Hiep Transportation Construction Company Limited (Ho Chi Minh city — Vietnam)	A999
Ophelia Shoe Co., Ltd (Dongguan — China)	A999
Ormazed Shoes (Zhao Qing City) Ltd (Zhaoqing — China)	A999
Ormazed Shoes Ltd (Dong Guan) (Dongguan — China)	A999
Pacific Joint — Venture Company (Binh Duong — Vietnam)	A999
Phuc Yen Shoes Factory (Phuc Yen — Vietnam) and related company Surcheer Industrial Co., Ltd	A999
Phuha Footwear Enterprise (Ha Dong — Vietnam)	A999
Phuhai Footwear Enterprise (Haiphong — Vietnam)	A999
Phulam Footwear Joint Stock Company (Ho Chi Minh City — Vietnam)	A999
Putian Dajili Footwear Co., Ltd (Putian — China)	A999
Right Rich Development VN Co., Ltd (Binh Duong — Vietnam)	A999
Saigon Jim Brother Corporation (Binh Duong — Vietnam)	A999
Shenzhen Harson Shoes Ltd (Shenzhen — China)	A999
Shunde Sunrise (II) Footwear Co., Ltd (Foshan — China) and related company Headlines Int Ltd	A999
Splendour Enterprise Co., Ltd (Nhon Trach — Vietnam)	A999
Stellar Footwear Co., Ltd (Haiduong — Vietnam)	A999
Sung Hyun Vina Co., Ltd (Binh Duong — Vietnam) and related company Sung Hyun Trading Co. Ltd	A999

Name of the exporting producer	TARIC additional code
Synco Footwear Ltd (Putian — China)	A999
Thai Binh Shoes Joint Stock Company (Binh Duong — Vietnam)	A999
Thang Long Shoes Company (Hanoi — Vietnam)	A999
Thanh Hung Co., Ltd (Haiphong — Vietnam)	A999
Thuy Khue Shoes Company Ltd (Hanoi — Vietnam)	A999
Truong Loi Shoes Company Limited (Ho Chi Minh City — Vietnam)	A999
Wenzhou Chali Shoes Co., Ltd (Wenzhou — China)	A999
Wenzhou Dibang Shoes Co., Ltd (Wenzhou — China)	A999
Wenzhou Gold Emperor Shoes Co., Ltd (Wenzhou — China)	A999
Xiamen Sunchoose Import & Export Co., Ltd (Xiamen — China)	A999
Xingtaiy Footwear Industry & Commerce Co., Ltd (Guangzhou — China)	A999
Zhuhai Shi Tai Footwear Company Limited (Zhuhai — China)	A999
Zhuhai Shun Tai Footwear Company Limited (Zhuhai — China)	A999

ANNEX III

List of companies notified to the European Commission for which there is no record of MET/IT claims

2kelly Asia Ltd
A Plus
A.T.G. Sourcing Limited NL also spelled ATG Sourcing Ltd
Admance Australia Pty Ltd
Agrimexco
Aider Company
Alsomio International Co. Ltd
Am Shoe Company
Amparo (Hk) Industry Limited
An Thinh Footwear Co. Ltd
An Thinh Shoes Company Ltd
Applause Shoes Co. Ltd
Aquarius Corporation
Ara Shoes (China) Co. Ltd
Asco General Suppliers (Far East) Ltd
Asiatec Industrial Limited
Betafac Industries Ltd
Bk Development Ltd
Bongo Enterprise
Bonshoe International Co. Ltd
Boxx Shoes
Brimmer Footwear Co. Ltd
(Guangzhou) C T N Footwear Co. Ltd
Calstep International Co.
Capital Bright Int Trading Services Ltd
Champ Link
Champion Footwear Mfg Co. Ltd
Chanty Industrial
Chen You Industries Co. Ltd
Chen Zhou Xin Chang Shoes Co. Ltd
Chenwell Co., Ltd

Chenyun Industry Development Ltd
Chiao Hong Shoes Co., Ltd
Chiao Hong Shoes Factory
China Arts & Crafts Nanhing I/E Corp Hanzhou Branch
China Guide Enterprises Limited
China Shenzhen Yuhui Import & Export Co. Ltd
China Sourcing Trading Co.
Chinook Products Co. Ltd
Chris Sports Systems
Chung Phi Enterprises Corp.
Clarion
Cong Hua Sheng Fu Shoes Co. Ltd
Continuance Vietnam Footwear Co. Ltd
Courtaulds Footwear
Denise Style Co., Ltd
Dong Guan Chang An Sha Tou Chi Long Shoes Factory China
Dong Guan Chang An Xiao Bian Seville Footwear Factory
Dong Guan Da Tian Shoes Co. Ltd
Dong Guan Shine Full Co. Ltd
Dong Guan Surpassing Shoes Co., Ltd
Dong Guan Yue Yuen Mfg. Co.
Dong Hung Industrial Joint Stock Company
Dongguan Chang An Xiao Bian Xin Peng Footwear Factory (also known as 'Seville') also notified as: 'Dongguan Chang An Xiao Bian Seville Footwear Factory (Seville = Xin Peng)'
Dongguan China Lianyun Footwear Manu-Facturing Co. Ltd
Dongguan Da Ling Shan Selena Footwear Factory
Dongguan Energy Shoe Co.
Dongguan Golden East Shoe Co. Ltd
Dongguan Houjie Santun Chen You Shoes Factory
Dongguan Lian Zeng Footwear Co. Ltd also spelled Dongguan Liaan Zeng Footwear Co. Ltd China
Dongguan Lianyun Footwear Manu-Facturing Co. Ltd
Dongguan Liao Bu Lian Ban You Wu Handbag Factory
Dongguan Liao Bu Yao Hui Shoes Fty
Dongguan Max Footwear Co. Limited
Dongguan Medicines and Health Products Import and Export Corporation Limited Of Guang Dong
Dongguan Nan Cheng China Full Bags Mfs. Fty.

Dongguan Shi Fang Shoes Co. Ltd
Dongguan Tongda Storage Serve Co. Ltd
Dongguan Ying Dong Shoes Co. Ltd
Dongguan Yongyi Shoes Co. Ltd
Donguan Chaoguan Footwear Ltd
Earth Asia Ltd
East City Trading Ltd
East Rock Limited
Eastern Load International Llc
E-Teen Market Ltd
Eternal Best Industrial Limited
Ever Credit China
Ever Credit Pacific Ltd
Ever Grace Shoes Vietnam Co. Ltd
Everco International
Ever-Rite International
Evervan
Evervan Deyang Footwear Co., Ltd
Evervan Golf
Evervan Qingyuan Footwear Co., Ltd
Evervan Qingyuan Vulcanized
Evervan Vietnam
Fabrica De Sapatos K
Fh Sports Agencies Ltd
Focus Footwear Co., Ltd
Focus Shoe Trading
Footwear International Germany Gmbh
Footwear Sourcing Company
Fortune Footwear Co. Ltd
Fortune Success Footwear Co. Ltd
Foshan Nanhai Nanbao Shoes Factory Ltd
Foshan Nanhai Shyang Ho Footwear Co. Ltd also spelled Shyang Ho Footwear Ltd
Four Star Shoes Co.
Freedom Trading Co. Inc
Fuh Chuen Co. Ltd

Fujian Putian Shuangchi Sports Goods
Fujian Putian Sunrise Footwear Limited also spelled Putian Sunrise Footwear Limited
Fujian Quanzhou Dasheng Plastic
Fujian Quanzhoutianchen Imp.& Exp.Trading Corp.
Fuqing Fuxing Plastic Rubber Products Co. Ltd
Fuqing Shengda Plastic Products Co., Ltd
Fuqing Xinghai Shoes Limited Company
Fuzhou B.O.K. Sports Industrial Co. Ltd
Fuzhou Simpersons Int. Trading Co. Ltd
Fuzhou Unico Trading Co. Ltd
Gain Strong Industrial Ltd
Gao Yao Chung Jye Shoes Ltd also spelled Gaoyao Chung Jye Shoes Manufacturer
Gasond Asia Limited
Gcl Footwear
Get Ever International Ltd
G-Foremost Co. Ltd
Giai Hiep Co. Ltd
Globe Distribution Co. Ltd
Golden Power Ind. Ltd
Golden Sun Joint Stock Company
Grace Master Limited
Great Union Manufacturing Ltd
Greenery Eternal Corporation
Greenland
Greenland Footwear Manufacturing Co. Ltd
Greenland Int. Ltd
Greenland International
Greenland Lian Yun
Gs (Gain Strong) Footwear Co. Ltd
Guang Xi Simona Footwear Co. Ltd
Guangdong Foreign Trade Imp.+Exp. Corp.
Guangdong Luxfull Shoes Co. Ltd
Guanglong Leather Goods Limited
Guangu Footwear Co. Ltd
Guangzhou Ecotec Tootwear Corporation Ltd

Guangzhou Ever Great Athertic Goods Co. Ltd
Guangzhou Guanglong Leather Goods Ltd
Guangzhou Panyu Xintaiy Footwear Industry & Commerce Co. Ltd
Guangzhou Peace Union Footwear Co. Ltd
Haili Import and Export Trading
Hainam Company Limited
Hangzhou Kingshoe Co. Limited
Hao Sheng Shoes Factory
Hao Sheng Shoes Factory
Haoin-Mao-Mao Import-Export Co. Ltd
He Shan Chung O Shoes
Heshan Heng Da Footwear Co. Ltd
Heshan Shi Hengyu Footwear Ltd
High Hope Int'L Group Jiangsu Foodstuffs Imp & Exp Corp. Ltd
Hison Vina Co., Ltd
Holly Pacific Ltd
Hong Kong Ko Chau Enterpise Limited
Hopecome Enterprises Limited
Houjie Santun Cheng Yu Shoes Factory
Hr Online Gmbh
Hsin Yih Footwear Co. Ltd
Huang Lin Footwear Co. Ltd
Huey Chuen (Cambodia) Co., Ltd
Huey Chuen Shoes Group
Huidong County Fucheng Shoes Co. Ltd
Hung Huy Co
Hung Thai Co., Ltd
Huy Phong Ltd Company
Idea (Macao Commercial Offshore) Ltd
Innovation Footwear Co. Ltd
Intermedium Footwear
Intermedium Shoes B.V.
International Shoe Trading Ltd
J&A Footwear Co. Ltd
J.J Trading Co., Ltd
Jangchun Shoe Manufacturing

Jascal Company Ltd
Jaxin Factory
Jeffer Enterprise Corp.
Ji Tai Leather Goods Co. Ltd
Jia Hsin Co. Ltd
Jimmy & Joe International Co., Ltd
Jinjiang Landhiker
Jou Churng Shoes Co. Ltd
Jws International Corp
Kaiyang Vietnam Co., Ltd
Kamkee
Kaoway Sports Ltd
Kim Duc Trading-Producting Co. Ltd
Kimberly Inc. Ltd also spelled Kimberley Inc Ltd
Ku Feng Shoes Factory
Lai Sun Enterprise Co. Ltd
Leader Global Co. Ltd
Legent Footwear Ltd
Lei Yang Nan Yang Shoes Co. Ltd
Leung's Mi Mi Shoes Factory Co. Ltd, Dongguan China
Lian Yun
Lian Zeng Footwear Co. Ltd
Lianyang Trading Co
Lianyun Footwear Manufacturing Co. Ltd
Link Worldwide Holdings Ltd
Longchuan Simona Footwear Co. Ltd
Longshine Industries Ltd
Lucky Shoes Factory
Madison Trading Ltd
Maggie Footwear Trading Co. Ltd
Mai Huong Co. Ltd
Main Test Inc
Manzoni Trading Ltd
Marketing&Service 2000
Maru Chuen (Cambodia) Corp. Ltd

Maru Chuen Corp. also spelled Maru Chuen (East City)
Master Concept Group Inc.
Mega International Group
Mega Power Co. Ltd
Mega Union Shoes
Memo B.V.
Metro & Metro
Mfg Commercial Ltd
Minh Nghe Trading & Industrial Co., Ltd
Mode International Inc.
Nam Po Footwear Ltd
Nanhai Yongli Shoes Co. Ltd
New Allied Com. Limited
New Concord Investment Ltd
Nice Well Holdings Limited
Niceriver Development Ltd
Niceriver Shoes Factory
Ningbo Dewin Internat. Co. Ltd
Nisport International Ltd
Ocean Ken International Ltd
O-Joo International Co., Ltd
O'leer Ind, Vietnam
Orces
Oriental Max Group
Oriental Sports Industrial Co. Ltd also spelled Oriental Sports Industrial Vietnam Co. Ltd
Osco Industries Limited
Osco Vietnam Company Limited
P.W.H. Oriental Limited
Panyu Force Footwear Co. Ltd
Park Avenue Sport
Parramatta Shu Haus Limited
Perfect Footwear International Co., Ltd
Perfect Global Enterises Ltd
Perfect Insight Holdings Ltd
Performance Plus Co.

Phuoc Binh Company Ltd
Planet Shoe S.R.O. also spelled Planet
Pou Hong (Yangzhou) Shoes
Pro Dragon Inc
Pro-Agenda Int'l Co. Ltd
Programme
Programme International
Protonic (Xiamen) Shoe Co., Ltd
Pt. Horn Ming Indonesia
Putian City Weifeng Footwear Co., Ltd
Putian Dongnan Imp.& Exp. Trading Co. Ltd
Putian Elite Ind.&Trading Co. Ltd also spelled Putian Elite Industry and Trading Co., Ltd
Putian Hengyu Footwear Co. Ltd
Putian Licheng Xinyang Footwear Co. Ltd
Putian Wholesome Trading Co. Ltd
Putian Xiecheng Footwear Co. Ltd
Qingdao Yijia Efar Import & Export Co. Ltd
Quanzhou Hengdali Import & Export Co. Ltd
Quanzhou Zhongxing International Trading Co. Ltd
Quingdao Korea Sporting Goods
Quoc Bao Co. Ltd
Rainbow Global
Rapid Profit International Ltd
Rayco Shoes Corp
Reno Fashion & Shoes Gmbh
Rib-Band Shoes Factory
Rich Shine International Co., Ltd
Rick
Rick Asia (Hong Kong) Ltd
Rieg
Rieg Und Niedermayer
Right Source Investments Ltd
Rollsport Vietnam Footwear Co. Ltd also spelled Dongguan Roll Sport Footwear Ltd
Rong Hui Shoes Designing Service Centre

Run International Ltd
Run Lifewear Gmbh
S H & M
S.T.C. Universal Holding Ltd
Samsung Uk
San Jia Factory Sanxiang Town
San Jia Shoes Factory
Sanchia Footwear Co. Ltd
Savannah
Selena Footwear Factory
Seng Hong Shoes (Dong Guan) Co. Ltd
Seville Footwear also spelled Footwear Factory
Seville Footwear Factory
Shanghai Hai Cheng Economic and Trade Corp Ltd
Shen Zhen Jinlian Trade Co. Ltd
Shenzen Kalinxin Imports & Exports Co., Ltd
Shenzhen Huachengmao Industry Co., Ltd
Shenzhen Chuangdali Trade Co. Ltd
Shenzhen Debaoyongxin Import Export Co. Ltd
Shenzhen Fengyuhua Trade Co., Ltd
Shenzhen Ganglianfa Import & Export Co. Ltd
Shenzhen Guangxingtai Import & Export Co. Ltd
Shenzhen Jieshixing Commerce Co., Ltd
Shenzhen Jin Cheng Zing Industry
Shenzhen Jin Hui Glass Decal Industrial Ltd Company, Great Union Manufacturing Ltd
Shenzhen Jinlian Trade Co. Ltd
Shenzhen Jiyoulong Import & Export Co. Ltd
Shenzhen Maoxinggyuan Industry Ltd also spelled Shenzhen Maoxingyuan Industry Ltd
Shenzhen Minghuida Industry Development Co. Ltd
Shenzhen Ruixingchang Import & Export Co., Ltd
Shenzhen Sanlian Commercial & Trading Co. Ltd
Shenzhen Seaport Import & Export Co. Ltd
Shenzhen Shangqi Imports-Exports Trade Co. Ltd
Shenzhen Sky Way Industrial Ltd
Shenzhen Tuochuang Imp. & Exp. Trading Co. Ltd

Shenzhen Weiyuantian Trade Co. Ltd
Shenzhen Yetai Import & Export Co. Ltd
Shenzhen Yongjieda Import & Export Co. Ltd
Shenzhen Yongxing Bang Industry Co. Ltd also spelled Shenzhen Yongxingbang Industry Co. Ltd
Shenzhen Yongxingbang Industry Co. Ltd
Shenzhen Yuanxinghe Import & Export Trade Co. Ltd
Shenzhen Yun De Bao Industry Co., Ltd
Shenzhen Zhongmeijia Imports & Exports Co. Ltd
Shenzhen, Shunchang Entrance Limited
Sherwood
Shezhen Luye East Industry Co. Ltd
Shin Yuang Shoe Factory
Shinng Ywang Co
Shiny East Limited
Shishi Foreign Investment
Shishi Longzheng Imp.& Exp. Trade Co. Ltd also spelled Shishi Longzheng Import And Export Trade Co
Shoes Unlimited
Shoes Unlimited B.V.
Shyang Way
Sichuan Pheedou International Leather Products Co., Ltd
Sichuan Topshine Import & Export
Simona
Simona Footwear Co. Ltd
Sincere Trading Co. Ltd
Sopan (Quanzhou) Import & Export Trading Co. Ltd
Sports Gear Co. Ltd
Sportshoes
Spotless Plastics (Hk) Ltd
Startright Co. Ltd
Stc Universal
Stella-Seville Footwear
Sun & Co
Sun & Co. Holding Ltd
Sun Shoes Factory
Sundance International Co. Ltd

Sunlight Limited — Macao Commercial Offshore
Sunny-Group
Super Trade Overseas Ltd
Supremo Oriental Co. Ltd
Supremo Shoes And Boots Handels Gmbh
T.M.C. International Co. Ltd
Tai Loc
Tai Yuan Trading Co. Ltd
Tam Da Co., Ltd
Tata South East Asia Ltd
Tendenza
Tendenza Schuh-Handelsges. Mbh
Tgl Limited
The Imports And Exports Trade Ltd Of Zhuhai
The Look (Macao Commercial Offshore) Co. Ltd
Thomas Bohl Vertriebs Gmbh
Thomsen Vertriebs Gmbh
Thong Nhat Rubber Company
Thuong Thang Production Shoes Joint Stock Company
Ting Feng Footwear Co. Ltd
Tong Shing Shoes Company
Top China Enterprise
Top Sun Maufacturing Co. Ltd
Trans Asia Shoes Co. Ltd
Transat Trading Ag
Trend Design
Trident Trading Co. Ltd
Tri-Vict Co., Ltd
Truong Son Trade And Service Co. Ltd
Uni Global Asia Ltd
Universal International
Vanbestco Ltd
Ven Bao Shoes Research Development Department
Vietnam Samho Co. Ltd
Vietnam Xin Chang Shoes Co. Ltd

Vinh Long Footwear Co., Ltd also spelled Long Footwear Company
Wearside Footwear
Well Union
Wellness Footwear Ltd
Wellunion Holdings Ltd Dg Factory
Wenling International Group
Wenzhou Cailanzi Group Co. Ltd
Wenzhou Dingfeng Shoes Co. Ltd
Wenzhou Dinghong Shoes Co., Ltd
Wenzhou Hanson Shoes
Wenzhou Hazan Shoes Co., Ltd also spelled Wenzohou Hazan Shoes Co., Ltd
Wenzhou Jiadian Shoes Industry Co. Ltd
Wenzhou Jinzhou Group Foreign Trade Ind. Co. Ltd
Wenzhou Thrive Intern. Trading Co. Ltd
Wenzhou Xiongchuang Imp.& Exp. Co. Ltd
Winpo Industries
Wolf Shoe Trading Co.
Wuzhou Partner Leather Co. Ltd
Xiamen C&D Light Industry Co.Ltd
Xiamen Duncan Amos Sportswear Co. Ltd
Xiamen Jadestone Trading Co. Ltd
Xiamen Li Feng Yuan Import And Export Co. Ltd
Xiamen Luxinjia Import & Export Co. Ltd
Xiamen Suaring Arts & Crafts Imp./Exp. Co. Ltd
Xiamen Suntech Imp. & Exp. Company Ltd
Xiamen Unibest Import & Export Co. Ltd
Xiamen Winning Import & Export Trade Co. Ltd
Xiamen Xindeco Ltd
Xiamen Zhongxinlong Import And Export Co. Ltd
Xin Heng Cheng Shoe Factory
Xin Ji City Baodefu Leather Co. Ltd
Yancheng Yujie Foreign Trade Corp Ltd
Yangxin Pou Jia Shoe Manufacturing Co., Ltd
Yih Hui Co. Ltd
Yongxin Footwear Co. Ltd

Yongzhou Xiang Way Sports Goods Ltd (Shineway Sports Ltd)
Yu Yuan Industrial Co. Ltd
Yue Chen Shoes Manufacturer Factory
Yy2-S3 Adidas
Zheijang Wenzhou Packing Imp.& Exp.Corp.
Zhejianc Mayu Import And Export Co. Ltd
Zhejiang G&B Foreign Trading Co., Ltd
Zhong Shan Pablun Shoes
Zhong Shan Profit Reach Ent. Ltd
Zhong Shan Xiao Kam Feng Lan East District Rubber & Plastic Factory
Zhongshan Greenery Eternal Corp
Zhongshan Paolina Shoes Factory
Zhongshan Xin Zhan Shoe Company
Zhongshan Zhongliang Foreign Trade Development Co. Ltd
Zhucheng Maite Footwear Co., Ltd also spelled Zucheng Majte Footwear Co. Ltd

ANNEX IV

List of exporting producers notified to the Commission already assessed individually or as part of a company group selected in the sample of exporting producers

Apache
Company No 32
Dona Bitis Imex Corp
Dongguanng Yue Yuen
Fitbest Enterprises Limited
Fuguiniao Group Ltd
Haiphong Leather Products And Footwear Company also spelled Haiphong Leather Products and Footwear One Member Limited Company Co.
Pou Chen Corporation
Pou Yuen Industrial (Holdings) Ltd
Pou Yuen Vietnam Company Ltd
Pou Yuen Vietnam Enterprises Ltd
Pouyen Vietnam Company Ltd
Pt. Pou Chen Indonesia
Sky High Trading
Sun Kuan (Bvi) Enterprises Limited also spelled Sun Kuan Enterprise
Sun Kuan J.V. Co.
Sun Sang Kong Yuen Shoes Pty (Huiyang) Ltd also spelled Sun Sang Korn Yuen Shoes Fty (Huiyang) Co. Ltd and Sun Sang Kong Yuen Shoes Fity. Co. Ltd
Zhong Shan Pou Yuen Bai
Zhong Shan Pou Yuen Manufacture Company also spelled Zhongshan Pou Yuen Manufacture Company

ANNEX V

List of exporting producers notified to the Commission already assessed either individually or as part of a company group in the context of Implementing Decision 2014/149/EU or in Implementing Regulations (EU) 2016/1395, (EU) 2016/1647, (EU) 2016/1731, (EU) 2016/2257, (EU) 2017/423 or (EU) 2017/1982

Name of the exporting producer	Regulation where it was assessed
An Loc Manufacture Construction	Implementing Regulation (EU) 2017/423
Anlac Footwear Company (Alsimex)	Implementing Regulation (EU) 2016/1647
Best Royal Co. Ltd	Implementing Regulation (EU) 2016/1647
Brookdale Investments Ltd	Implementing Regulation (EU) 2016/1395
Brosmann Footwear	Implementing Decision 2014/149/EU
Buildyet Shoes	Implementing Regulation (EU) 2016/1395
Chengdu Sunshine	Implementing Regulation (EU) 2016/2257
Da Sheng (Bvi) International	Implementing Regulation (EU) 2016/1395
Da Sheng Enterprise Corporation	Implementing Regulation (EU) 2016/1395
Diamond Group International Ltd	Implementing Regulation (EU) 2016/1731
Diamond Vietnam Co. Ltd	Implementing Regulation (EU) 2016/1731
Dongguan Shingtak Shoes Company Ltd	Implementing Regulation (EU) 2017/1982
Dongguan Stella Footwear Co. Ltd also spelled Duangguan Stella Footwear Co. Ltd	Implementing Regulation (EU) 2016/1395
Dongguan Taiway Sports Goods Ltd	Implementing Regulation (EU) 2016/1395
Dongguan Texas Shoes Ltd Co	Implementing Regulation (EU) 2017/423
Footgearmex Footwear Co. Ltd	Implementing Regulation (EU) 2016/1731
Freetrend Industrial A (Vietnam) Co. Ltd	Implementing Regulation (EU) 2016/1647
Freetrend Industrial Ltd also spelled Freetrend Industrial Ltd (Dean Shoes)	Implementing Regulation (EU) 2016/1647
Freetrend Vietnam	Implementing Regulation (EU) 2016/1647
Fujian Sunshine Footwear Co. Ltd	Implementing Regulation (EU) 2016/2257
Fulgent Sun Footwear Co. Ltd	Implementing Regulation (EU) 2016/1647
General Footwear	Implementing Regulation (EU) 2016/1731
General Shoes Co. Ltd also spelled General Shoes Ltd	Implementing Regulation (EU) 2016/1647
Genfort Shoes Ltd also spelled Gaoyao Chung Jye Shoes Manufacturer	Implementing Regulation (EU) 2016/1647 and (EU) 2016/1731

Name of the exporting producer	Regulation where it was assessed
Golden Chang Industrial Co. Ltd	Implementing Regulation (EU) 2017/423
Golden Star Company Limited also spelled Golden Star Co. Ltd	Implementing Regulation (EU) 2016/1647
Golden Top	Implementing Regulation (EU) 2016/1647
Golden Top Company Ltd	Implementing Regulation (EU) 2016/1647
Guangzhou Hsieh Da Rubber Ltd	Implementing Regulation (EU) 2017/423
Guanzhou Pan Yu Leader Shoes Corp	Implementing Regulation (EU) 2017/423
Happy Those International Limited	Implementing Regulation (EU) 2017/423
Hopeway Group Ltd	Implementing Regulation (EU) 2016/1395
Hsin-Kuo Plastic Industrial	Implementing Regulation (EU) 2016/1647
Hung Dat Company also spelled Hung Dat Joint Stock Company	Implementing Regulation (EU) 2016/1647
Jianle Footwear	Implementing Regulation (EU) 2016/1395
Kimo Weihua	Implementing Regulation (EU) 2016/1395
Kingfield International Ltd	Implementing Regulations (EU) 2016/1731 and (EU) 2016/1647
Kingmaker also spelled Kingmaker (Zhongshan) Footwear Co., Ltd	Implementing Regulation (EU) 2017/423
Lac Cuong Footwear Co. Ltd	Implementing Regulation (EU) 2016/1647
Lac Ty Company Ltd	Implementing Regulation (EU) 2016/1647
Lai Lin Footwear Company also spelled Lai Yin Footwear Company	Implementing Regulation (EU) 2016/1647
Lien Phat Comp. Ltd also spelled Lien Pat Comp. Ltd	Implementing Regulation (EU) 2017/423
Long Son Joint Stock Company	Implementing Regulation (EU) 2017/1982
Lung Pao Footwear Ltd	Implementing Decision 2014/149/EU
Maystar Footwear also spelled Maystar Footwear Co., Ltd	Implementing Regulation (EU) 2017/423
Mega Star Industries Limited	Implementing Regulation (EU) 2016/1647
Miri Footwear	Implementing Regulation (EU) 2017/423 and (EU) 2016/1647
Novi Footwear also spelled Novi Footwear (F.E.) Pte.Ltd	Implementing Decision 2014/149/EU
Pacific Footgear Corporation	Implementing Regulation (EU) 2017/423

Name of the exporting producer	Regulation where it was assessed
Panyu Pegasus Footwear Co. Ltd	Implementing Regulation (EU) 2017/423
Sao Viet Joint Stock Company	Implementing Regulation (EU) 2016/1647
Shoe Majesty Trading Company (Growth-Link Trade Services)	Implementing Regulation (EU) 2016/1647
Stella Ds3	Implementing Regulation (EU) 2016/1395
Stella Footwear Company Ltd also spelled Dongguan Stella Footwear Co. Ltd	Implementing Regulation (EU) 2016/1395
Stella International Limited	Implementing Regulation (EU) 2016/1395
Strong Bunch also spelled Strong Bunch Int'l Ltd	Implementing Regulation (EU) 2016/1647
Strong Bunch Yung-Li Shoes Factory	Implementing Regulation (EU) 2016/1647
Taicang Kotoni Shoes Co. Ltd	Implementing Regulation (EU) 2016/1395
Taiway Sports	Implementing Regulation (EU) 2016/1395
Tatha	Implementing Regulation (EU) 2016/1647
Texas Shoe Ind	Implementing Regulation (EU) 2017/423
Thien Loc Shoe Co. Ltd also spelled Thien Loc Shoes Jointstock Company (Hochimin City/Vietnam)	Implementing Regulation (EU) 2016/1647
Thrive Enterprice Co. Ltd	Implementing Regulation (EU) 2016/1647
Tripos Enterprises Inc	Implementing Regulation (EU) 2016/1647
Ty Hung Co. Ltd	Implementing Regulation (EU) 2016/1731
Vietnam Shoe Majesty	Implementing Regulation (EU) 2016/1647
Vinh Thong Producing-Trading — Service Co. Ltd	Implementing Regulation (EU) 2017/423
Vmc Royal Co., Ltd also spelled Royal Company Ltd (Supertrade)	Implementing Regulation (EU) 2016/1647
Wei Hua Shoes Co. Ltd	Implementing Regulation (EU) 2016/1395
Wincap Industrial Limited	Implementing Regulation (EU) 2017/423
Zhongshan Wei Hao Shoe Co., Ltd	Implementing Regulation (EU) 2016/1395
Zhongshan Glory Shoes Industrial Co. Ltd also spelled Zhongshan Glory Shoes Co. Ltd (= Zhongshan Xin Chang Shoes Co. Ltd)	Implementing Regulation (EU) 2017/423

ANNEX VI

List of companies whose examination was suspended pursuant to Article 3 of Commission Implementing Regulation (EU) 2017/423 and for which there is no record of MET/IT claims:

Alamode
All Pass
Allied Jet Limited
Allied Jet Limited C/O Sheng Rong F
American Zabin Intl
An Thinh Footwear Co. Ltd
Aquarius Corporation
Asia Footwear
Bcny International Inc.
Besco Enterprise
Best Capital
Branch Of Empereor Co. Ltd
Brentwood Fujian Industry Co. Ltd
Brentwood Trading Company
Brown Pacific Trading Ltd,
Bufeng
Bullboxer
C and C Accord Ltd
Calson Investment Limited
Calz.Sab Shoes S.R.L.
Carlson Group
Cd Star
Chaozhou Zhong Tian Cheng
China Ever
Coral Reef Asia Pacific Ltd
Cult Design
Dhai Hoan Footwear Production Joint Stock Company
Diamond Group International Ltd/Yong Zhou Xiang Way Sports Goods Ltd
Dong Guan Chang An Xiao Bian Sevilla
Dong Guan Hua Xin Shoes Ltd
Dongguan Qiaosheng Footwear Co
Dongguan Ta Yue Shoes Co. Ltd

Dongguan Yongxin Shoes Co. Ltd
Eastern Shoes Collection Co. Ltd
Easy Dense Limited
Enigma/More Shoes Inc.
Evais Co., Ltd
Ever Credit Pacific Ltd
Evergiant
Evergo Enterprises Ltd C/O Thunder
Fh Sports Agencies Ltd
Fijian Guanzhou Foreign Trade Corp
Foster Investments Inc.
Freemanshoes Co. Ltd
Fu Xiang Footwear
Fujian Jinmaiwang Shoes & Garments Products Co. Ltd
Gerli
Get Success Limited Globe Distributing Co. Ltd
Golden Steps Footwear Ltd
Goodmiles
Ha Chen Trade Corporation
Hai Vinh Trading Comp
Haiphong Sholega
Hanlin (Bvi) Int'l Company Ltd C/O
Happy Those International Ltd
Hawshin
Heshan Shi Hengyu Footwear Ltd
Hiep Tri Co. Ltd
Hison Vina Co. Ltd
Holly Pacific Ltd
Huey Chuen Shoes Group/Fuh Chuen Co. Ltd
Hui Dong Ful Shing Shoes Co. Ltd
Hunex
Hung Tin Co. Ltd
Ifr
Inter — Pacific Corp.

Ipc Hong Kong Branch Ltd
J.C. Trading Limited
Jason Footwear
Jia Hsin Co. Ltd
Jia Huan
Jinjiang Yiren Shoes Co. Ltd
Jou Da
Jubilant Team International Ltd
Jws International Corp
Kai Yang Vietnam Co. Ltd
Kaiyang Vietnam Co. Ltd
Kim Duck Trading Production
Legend Footwear Ltd also spelled as Legent Footwear Ltd
Leif J. Ostberg, Inc.
Lu Xin Jia
Mai Huong Co. Ltd
Mario Micheli
Masterbrands
Mayflower
Ming Well Int'l Corp.
Miri Footwear International, Inc.
Mix Mode
Morgan Int'l Co., Ltd C/O Hwashun
New Allied
New Fu Xiang
Northstar Sourcing Group Hk Ltd
O.T. Enterprise Co.
O'lear Ind Vietnam Co. Ltd also spelled as O'leer Ind. Vietnam Co. Ltd
O'leer Ind. Vietnam Co. Ltd
Ontario Dc
Osco Industries Ltd
Osco Vietnam Company Ltd
Pacific Best Co., Ltd
Perfect Global Enterprises Ltd

Peter Truong Style, Inc.
Petrona Trading Corp
Phuoc Binh Company Ltd
Phy Lam Industry Trading Investment Corp
Pop Europe
Pou Chen P/A Pou Sung Vietnam Co, Ltd
Pou Chen Corp P/A Idea
Pou Chen Corp P/A Yue Yuen Industrial Estate
Pro Dragon Inc.
Puibright Investments Limited T/A
Putian Lifeng Footwear Co. Ltd
Putian Newpower International T
Putian Xiesheng Footwear Co
Quan Tak
Red Indian
Rick Asia (Hong Kong) Ltd
Right Source Investment Limited/Vinh Long Footwear Co., Ltd
Right Source Investments Ltd
Robinson Trading Ltd
Rubber Industry Corp. Rubimex
Seng Hong Shoes (Dong Guan) Co. Ltd
Seville Footwear
Shanghai Xinpingshun Trade Co. Ltd
Sheng Rong
Shenzhen Guangyufa Industrial Co. Ltd
Shenzhen Henggtengfa Electroni
Shining Ywang Corp
Shishi
Shishi Longzheng Import And Export Trade Co. Ltd
Shoe Premier
Simonato
Sincere Trading Co. Ltd
Sinowest
Slipper Hut & Co

Sun Power International Co., Ltd
Sunkuan Taichung Office/Jia Hsin Co., Ltd
Sunny
Sunny Faith Co., Ltd
Sunny State Enterprises Ltd
Tbs
Tendenza Enterprise Ltd
Texas Shoe Footwear Corp
Thai Binh Holding & Shoes Manufac
Thanh Le General Import-Export Trading Company
Thuong Tang Shoes Co. Ltd
Tian Lih
Tong Shing Shoes Company
Top Advanced Enterprise Limited
Trans Asia Shoes Co. Ltd
Triple Win
Trullion Inc.
Truong Son Trade And Service Co. Ltd
Tunlit International Ltd- Simple Footwear
Uyang
Vietnam Xin Chang Shoes Co.
Vinh Long Footwear Co. Ltd
Wincap Industrial Ltd
Wuzhou Partner Leather Co. Ltd
Xiamen Duncan — Amos Sportswear Co. Ltd
Xiamen Luxinjia Import & Export Co.
Xiamen Ocean Imp&Exp
Xiamen Unibest Import And Export Co. Ltd
Yangzhou Baoyi Shoes
Ydra Shoes
Yongming Footwear Factory
Zhong Shan Pou Shen Footwear Company Ltd
Zigi New York Group

COMMISSION IMPLEMENTING REGULATION (EU) 2017/2233

of 4 December 2017

amending Regulation (EC) No 900/2009 as regards the characterisation of selenomethionine produced by *Saccharomyces cerevisiae* CNCM I-3399

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition ([1]) and in particular Article 13(2) thereof,

Whereas:

(1) Commission Regulation (EC) No 900/2009 ([2]) as amended by Commission Implementing Regulation (EU) No 427/2013 ([3]) authorises selenomethionine produced by *Saccharomyces cerevisiae* CNCM I-3399 as a feed additive.

(2) The Commission received an application requesting a modification of the conditions of the authorisation as regards the characterisation of the feed additive. That application was accompanied by the relevant supporting data. The Commission forwarded that application to the European Food Safety Authority ('the Authority').

(3) The Authority concluded in its opinion of 5 July 2017 ([4]) that the requested modification would not affect the safety and efficacy of the product, recalling the risk for user safety of the product. The current authorisation act contains a provision to adequately address this risk. The Authority suggests to include the selenocysteine content in the characterisation of the additive but due to a lack of an analytical method for selenocysteine this suggestion cannot be followed.

(4) The assessment of the modified preparation shows that it satisfies the conditions for authorisation, provided for in Article 5 of Regulation (EC) No 1831/2003.

(5) Regulation (EC) No 900/2009 should therefore be amended accordingly.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plant, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment to Regulation (EC) No 900/2009

In the fourth column of the Annex to Regulation (EC) No 900/2009, the text between the heading 'Characterisation of the additive' and the heading 'Characterisation of the active substance' is replaced by the following:

'Organic selenium, mainly selenomethionine (63 %), with a content of 2 000 to 3 500 mg Se/kg (97 to 99 % of organic selenium)'.

([1]) OJ L 268, 18.10.2003, p. 29.
([2]) Commission Regulation (EC) No 900/2009 of 25 September 2009 concerning the authorisation of selenomethionine produced by *Saccharomyces cerevisiae* CNCM I-3399 as a feed additive (OJ L 256, 29.9.2009, p. 12).
([3]) Commission Implementing Regulation (EU) No 427/2013 of 8 May 2013 concerning the authorisation of selenomethionine produced by *Saccharomyces cerevisiae* NCYC R646 as a feed additive for all animal species and amending Regulations (EC) No 1750/2006, (EC) No 634/2007 and (EC) No 900/2009 as regards the maximum supplementation with selenised yeast (OJ L 127, 9.5.2013, p. 20).
([4]) EFSA Journal 2017;15(7):4937.

Article 2

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation is binding in its entirety and directly applicable in all Member States.

Done at Brussels, 4 December 2017.

For the Commission
The President
Jean-Claude JUNCKER

DECISIONS

COUNCIL DECISION (CFSP) 2017/2234

of 4 December 2017

amending Decision (CFSP) 2016/2382 establishing a European Security and Defence College (ESDC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 28(1), 42(4) and 43(2) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

(1) On 21 December 2016, the Council adopted Decision (CFSP) 2016/2382 ([1]).

(2) A new financial reference amount for the period from 1 January 2018 to 31 December 2018 should be established.

(3) Decision (CFSP) 2016/2382 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Amendment to Decision (CFSP) 2016/2382

In Article 16 of Decision (CFSP) 2016/2382, paragraph 2 is replaced by the following:

'2. The financial reference amount intended to cover the expenditure of the ESDC during the period from 1 January 2018 to 31 December 2018 shall be EUR 925 000,00.

The financial reference amount to cover the expenditure of the ESDC for subsequent periods shall be decided by the Council.'.

Article 2

Entry into force

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 4 December 2017.

For the Council
The President
U. PALO

([1]) Council Decision (CFSP) 2016/2382 of 21 December 2016 establishing a European Security and Defence College (ESDC) and repealing Decision 2013/189/CFSP (OJ L 352, 23.12.2016, p. 60).

CORRIGENDA

Corrigendum to Commission Implementing Regulation (EU) 2017/1795 of 5 October 2017 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Brazil, Iran, Russia and Ukraine and terminating the investigation on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Serbia

(Official Journal of the European Union L 258 of 6 October 2017)

On page 122, Article 1(4):

for: '4. The rate of the definitive anti-dumping duty applicable to the product described in paragraph 1 and produced by any other company not specifically mentioned in paragraph 2 shall be the fixed duty as set out in the table below',

read: '4. The rate of the definitive anti-dumping duty applicable to the product described in paragraph 1 and produced by any other company not specifically mentioned in paragraph 3 shall be the fixed duty as set out in the table below:';

On page 122, Article 1(5):

for: '5. For the individually named producers and in cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 131(2) of Commission Implementing Regulation (EU) 2015/2447 (*) the definitive duty rate, calculated on the basis of paragraph 2 above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable. The duty payable will then be equal to the difference between the reduced definitive duty rate and the reduced net, free-at-Union-frontier price, before customs clearance.

(*) Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).',

read: '5. For the individually named producers and in cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 131(2) of Commission Implementing Regulation (EU) 2015/2447 (*) the definitive duty rate, calculated on the basis of paragraph 3 above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable. The duty payable will then be equal to the difference between the reduced definitive duty rate and the reduced net, free-at-Union-frontier price, before customs clearance.

(*) Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).';

On page 122, Article 1(6):

for: '6. For all other companies and in cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 131(2) of Implementing Regulation (EU) 2015/2447, the amount of the anti-dumping duty rate, calculated on the basis of paragraph 3 above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.',

read: '6. For all other companies and in cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 131(2) of Implementing Regulation (EU) 2015/2447, the amount of the anti-dumping duty rate, calculated on the basis of paragraph 4 above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.'.

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